EXHIBIT

20

Minneapolis
City of Lakes

Police Department
Janeé L. Harteau, Chief of Police
350 S. Fifth St., Room 130
Minneapolis, MN 55415
TEL 612.673.3000
www.minneapolismn.gov

November 15, 2016

Officer [redacted]
[redacted]
Minneapolis Police Department

RE: OPCR Case Number [redacted]

Officer [redacted]

This letter is to advise you that OPCR Case Number #[redacted] has been completed. The finding is as follows:

MPD P/P 5-105(E.2) Professional Code of Conduct.....SUSTAINED (Category B)

You will receive coaching from your supervisor and the case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge.

Sincerely,

Janee Harteau
Chief of Police

By: Kristine Arneson
Assistant Chief

CC: Personnel
OPCR
DC Glampe

Pl.'s Ex. 20

EXHIBIT

21

Minneapolis
City of Lakes

Police Department – Janeé L. Harteau, Chief of Police
350 S. Fifth St. - Room 130
Minneapolis, MN 55415
TEL 612.673.3000
www.minneapolismn.gov

NOTICE OF ACTION

May 8, 2017

Officer [redacted]
[redacted]
Minneapolis Police Department

RE: OPCR Case Number [redacted]
Notice of Coaching

Officer [redacted]

The finding for OPCR Case [redacted] is as follows:

Policy Number	Sub-Section	Policy Description	Category	Disposition
5-401		Safe Handling of Firearms	B	SUSTAINED

You will receive coaching from your supervisor as the corrective action.

This case will remain in OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

Janeé L. Harteau
Chief of Police

By: Medaria Arradondo, Assistant Chief of Police
Travis Glampe, Deputy Chief, Professional Standards Bureau

Pl.'s Ex. 21

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Officer [redacted] acknowledge that I have received my Notice of Action for OPCR Case #[redacted]

[redacted]

7/26/17
Date of Receipt

Inspector Michael Kjos

7/26/17
Date

CC: Personnel
IAU

EXHIBIT

22

Minneapolis
City of Lakes

Police Department – Medaria Arradondo, Chief of Police
350 S. Fifth St. - Room 130
Minneapolis, MN 55415
TEL 612.673.3000
www.minneapolismn.gov

NOTICE OF ACTION

January 17, 2018

Officer [redacted]
[redacted]
Minneapolis Police Department

RE: OPCR Case # [redacted]

Officer [redacted],

The finding for OPCR Case [redacted] is as follows:

Policy Number	Sub-Section	Policy Description	Category	Disposition
5-401		Handling of Firearms	B	Sustained

You will receive coaching from your supervisor as the finding was sustained at a Category B.

This case will remain in OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

Cmdr. Melissa Chiodo
Internal Affairs Unit
Minneapolis Police Department

CC: OPCR Case File
Inspector Aaron Biard

Pl.'s Ex. 22

EXHIBIT

23

Minneapolis
City of Lakes

Police Department

Janeé L. Harteau
Chief of Police

350 South 5th Street - Room 130
Minneapolis, MN 55415-1389

612 673-2735
TTY 612 673-2157

January 8, 2016

Officer [redacted]
[redacted]
Minneapolis Police Department

RE: OPCR Case Number [redacted]

Officer [redacted],

This letter is to advise you that OPCR Case Number [redacted] has been completed. The finding is as follows:

[redacted]

MPD P/P 5-105 #10 Professional Code of Conduct (language)....SUSTAINED (Category B)

You will receive coaching from your supervisor and the case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge from employment.

Sincerely,

Janee Harteau
Chief of Police

By: Kristine Arneson
Assistant Chief

cc: Personnel
OPCR
Inspector Kjos

Pl.'s Ex. 23

EXHIBIT

32

COACHING DOCUMENTATION

Name of Complainant		**Complaint Date**	**Coaching Number**
Home Address		**City** **Zip**	**Phone Numbers**
Date of Incident	**Time**	**Location**	**Case Number**
Name of Employee Involved		**Employee Number**	**Assigned Shift**

NATURE OF COMPLAINT

Complainant Description of Employee's Actions:

MPD Policy and Procedure Manual Number(s):

Pl.'s Ex. 32

DETAILS OF INVESTIGATION

Supervisor that conducted investigation: _____

☐Spoke with complainant for full details Date: Click to enter date

☐Spoke with witnesses (civilian/officers) Date: Click to enter date

☐Reviewed CAPRS/PIMS ☐Reviewed Squad MVR ☐Reviewed BWC

☐Reviewed other evidence (describe): Enter description

DETAILS OF COACHING SESSION

Supervisor that met with employee: Enter Supervisor Name

Meeting Date: Click to enter date Time: Enter Time Location: Enter Location

EMPLOYEE'S RESPONSE:

Enter response

SUPERVISOR'S RECOMMENDATION:

Enter recommendation

ACTION TAKEN

Policy and Procedure #1: _____

Did policy violation occur?* ☐Yes ☐No

Was officer coached?** ☐Yes ☐No

Other (describe): Enter description

Policy and Procedure #2: _____

Did policy violation occur?* ☐Yes ☐No

Was officer coached?** ☐Yes ☐No

Other (describe): Enter description

Policy and Procedure #3: _____

Did policy violation occur?* ☐Yes ☐No

Was officer coached?** ☐Yes ☐No

Other (describe): Enter description

Policy and Procedure #4: _____

Did policy violation occur?* ☐Yes ☐No

Was officer coached?** ☐Yes ☐No

Other (describe): Enter description

*A determination of whether an MPD policy violation occurred must be made for each allegation.

** Supervisor may want to discuss options for handling similar situations in the future to prevent complaints.

Complainant contacted via: ☐Telephone ☐Email ☐Other: Enter text

Reviewed and Approved by: Enter Shift/Unit Lieutenant Name Date: Click to enter date.

(Shift/Unit Lieutenant)

Received and Approved by: Enter Precinct/Division Commander Name Date: Click to enter date.

(Precinct or Division Commander)

MP – 1053 (Rev. 3/15)

ADDITIONAL INFORMATION

Enter additional information

EXHIBIT

33

"IAU Case Processing – Panel Report SOP's Feb 2015"

2-11-15

Unit SOP's

For OPCR cases: We will wait 30 days after returning the Chief's final determination on an OPCR Case to send Outcome letters to FocusWhen to send Outcome Notification Letters to the Focus officers in Merit or No Merit OPCR cases:

a. No Merit – we will receive discipline worksheets back from the Chief's office with a Final Determination (more likely to be an issue with these)
    i. We will typically receive only discipline worksheets back from the Chief's office
b. Merit – we will receive the full case file back from the Chief's office with a Final Determination (possible with these, more of a need to communicate here)
    i. We will scan these documents into PM
    ii. We will then return the case to Ryan Patrick
    iii. The 30 day clock will begin on the day we receive the Chief's packet from Ryan Patrick.
    iv. Cmdr. Granger or Lt. Halvorson will notify Joni (or Rosa as a back-up) if a request for Reconsideration has been made
    v. If a request for Reconsideration is made, the clock stops until the Joint Supervisors decide if the Reconsideration is denied, if more investigation is needed or if the case is returned to the review panel for a revision of their recommendation.
    vi. Joni will wait to hear from Cmdr Granger or Lt. Halvorson of what the outcome is for the request for Reconsideration.
    vii. If there is no request for Reconsideration made within the 30 days, the Outcome Notification Letters can be sent to the Focus officers

2. Coaching Documents in "IA Review" status on the Panel Report
    a. These cases will remain on the Inspector / Commanders Panel Report Page until Joni sends the email to Ryan Patrick returning the Coaching Document as Complete. **Each document must be reviewed by a Supervisor before being returned to Ryan Patrick.**
    b. These will be highlighted in yellow on the panel report
    c. The date the Coaching document was returned from the Inspector / Commander will also be noted on the Panel Report
3. Letters of Reprimand and Suspension Paperwork sent to the Inspector / Commander
    a. The type of document and the date it was sent to the Inspector / Commander will be added to the panel report in the Follow up Documentation section with a 30 day due date
4. New – Coaching as part of an Administrative Case Outcome
        i. The notification letter will be drafted like a discipline letter outcome requiring signatures and date
        ii. A coaching memo may be required as part of this process

1. If a coaching memo is required, this will be noted on the Inspector / Commander's panel report page under follow up documentation with a 30 day due date
2. Along with the Notification Letter, The Discipline worksheets with the Final Determination, along with the Coaching Memo guide will be send to the Inspector / Commander with a Notification that Coaching is required
3. The coaching memo will reviewed by a supervisor when it's returned to the IAU.
4. Once review is complete, the Coaching memo will be added to the PM file

Key Points:

1. All cases / coaching documents and follow-up documents will remain on the panel report until the IAU has finished processing them, entered into PM, supervisor review completed, etc.
2. Communication has to be consistent between Rosa, Joni, Lt. Halvorson and me.

Let me know if you have any questions or if you have ideas on how to improve these items.

Thanks, Cmdr Granger

EXHIBIT

34

Your Personnel File

I always encourage members to keep a duplicate copy of your personnel file. In addition you should review what is contained in your official personnel file on an annual or bi-annual basis. Select an anniversary date and make it a point to keep track of what is written about you. If you are involved in a high profile incident, or in a disciplinary setting your file will be reviewed. Administrators will review for prior discipline or awards. Media will do the same. Do yourself a favor and keep current on what is contained in your file. Many times old coaching documents or disciplinary letters are in the file beyond the date they should be removed. Sometimes awards or letters of appreciation are not in the file. If something is no longer current you can request that it's removed. If something is missing you can request it be included.

Current employees wanting to review any part of their personnel and/or medical files should email Kimberlee S. MacDonald Kim.MacDonald@minneapolismn.gov Manager of MPD Research & Policy Development Unit in advance to schedule an appointment. Her unit handles all personnel files. They should let her know whether they want to review: just the Personnel file - Employment, Assignment, Awards & Training Sections; and/or the Medical file – which sometimes contains the psychological; and/or the Performance Evaluations – some of which need to be requested from HR and may take a few days to a week to obtain.

Current employees wanting copies of any part of the above need to email her, stating which of the aforementioned parts of the files they are requesting and how they would like to receive them – pick up in person, emailed to them (must include email address). They cannot be sent inter-office.

Former employees must all go through Records Information Unit. There is a form that can be filled out and submitted online.

They only keep active files in their office, plus three years of in-active files. So, they currently have 2018, 2017 and 2016 in-actives.

Central HR keeps inactive personnel records for an additional 3 years. Medical records are kept for a total of 30 years, once an employee becomes inactive.

They are currently in the process of converting paper personnel and medical files to an electronic format (scanning into SharePoint). Kimberly is trying to make it possible for employees to have the option of obtaining the actual paper copy if they want, once the conversion in completed. This has not yet been authorized to happen. Once the files are in SharePoint, the process for viewing the files will change. Details are still being worked out but it should involve giving access to the employee to view the file electronically for a short period of time.

Daniel Boody, Daniel.Boody@minneapolismn.gov also works in the unit can also assist people with their requests. If the request is sent to Kimberley they can copy Daniel as well. They need the requests in writing so its best to email. Until they actually receive the request in writing they don't have an actual data request. Someone requesting data on themselves is considered a data subject request. They have 7 business days to respond to the request. They are currently trying to fill a support staff position. That person will ultimately be the person who will handle the majority of the requests, but for now these are the two current points of contact.

Again, I encourage you to utilize the process and stay current about what is contained in your file.

Stay safe,

Lt. Bob Kroll
President

EXHIBIT

35

Police Conduct Oversight Commission

May 11, 2021

Pl.'s Ex. 35

TED ARBEITER: The broadcast of the regular meeting of the Police Conduct Oversight Commission will now begin.

VICE CHAIR MALAYSIA ABDI: Good evening. My name is Malaysia Abdi, and I am the Vice Chair of the Police Conduct Oversight Commission. And I'm going to call this meeting for May 11th, 2021 to order.

As we begin, I will note for the record that this meeting has remote participation by commissioners and city staff as authorized under Minnesota Statute Section 13D.021 due to the declared local public health emergency.

The City will be recording and posting this meeting to the City's website and YouTube channel as a means of increasing public access and transparency.

This meeting is public and subject to Minnesota open meeting laws. And I would like to note that Chair Jackson is unable to join us tonight due to a personal matter.

At this time, I will ask the clerk to call the rules so we can verify a quorum for this meeting.

CLERK: Commissioner Cerra.

COMMISSIONER ABIGAIL CERRA: Present.
CLERK: Commissioner Crockett.
COMMISSIONER JORDAN CROCKETT: Present.
CLERK: Commissioner Jacobsen.
COMMISSIONER LYNNAIA JACOBSEN: Here.
CLERK: Commissioner McGuire.
COMMISSIONER KERRY MCGUIRE: Present.
CLERK: Commissioner Pineau.
COMMISSIONER ROBERT PINEAU: Here.
CLERK: Commissioner Sparks.
COMMISSIONER JORDAN SPARKS: Present.
CLERK: Commissioner Sylvester.
COMMISSIONER JOHN SYLVESTER: Here.
CLERK: Vice Chair Jackson. Vice Chair Jackson?
COMMISSIONER ROBERT PINEAU: I think what's confusing is you're saying Vice Chair Jackson. Chair Jackson.
CLERK: Oh. My apologize. Vice Chair Abdi.
VICE CHAIR MALAYSIA ABDI: Present.
CLERK: There are eight members present.
VICE CHAIR MALAYSIA ABDI: Okay. Let the record reflect that we do have a quorum.

Next we will proceed to our agenda, a copy of which has been posted for public access to the city legislation information management system, which is available at lims.mineeapolismn.gov.

The first motion is to adopt the agenda. May I have a motion to adopt the agenda?

COMMISSIONER ROBERT PINEAU: So moved by Commissioner Pineau.

VICE CHAIR MALAYSIA ABDI: May I get a second?

COMMISSIONER ABIGAIL CERRA: Second by Commissioner Cerra.

VICE CHAIR MALAYSIA ABDI: Okay. Will the clerk please call the roll?

VICE CHAIR MALAYSIA ABDI: Commissioner Cerra.

COMMISSIONER ABIGAIL CERRA: Aye.

CLERK: Commissioner Crockett.

COMMISSIONER JORDAN CROCKETT: Aye.

CLERK: Commissioner Jacobsen.

COMMISSIONER LYNNAIA JACOBSEN: Aye.

CLERK: Commissioner McGuire.

COMMISSIONER KERRY MCGUIRE: Aye.

CLERK: Commissioner Pineau.

COMMISSIONER ROBERT PINEAU: Aye.

CLERK: Commissioner Sparks.
COMMISSIONER JORDAN SPARKS: Aue.
CLERK: Commissioner Sylvester.
COMMISSIONER JOHN SYLVESTER: Aye.
CLERK: Vice Chair Abdi.
VICE CHAIR MALAYSIA ABDI: Aye.
CLERK: There are eight members -- there are eight ayes.
VICE CHAIR MALAYSIA ABDI: So the motion carries and the agenda is adopted.
The next item is the acceptance of the minutes from the meeting of April 13th, 2021. May I have a motion to accept the minutes?
COMMISSIONER ABIGAIL CERRA: So moved by Commissioner Cerra.
VICE CHAIR MALAYSIA ABDI: And may I have a second, please?
COMMISSIONER ROBERT PINEAU: Second by Commissioner Pineau.
VICE CHAIR MALAYSIA ABDI: Will the clerk please call the roll?
CLERK: Commissioner Cerra.
COMMISSIONER ABIGAIL CERRA: Aye.
CLERK: Commissioner Crockett.
COMMISSIONER JORDAN CROCKETT: Aye.

CLERK: Commissioner Jacobsen.
COMMISSIONER LYNNAIA JACOBSEN: Aye.
CLERK: Commissioner McGuire.
COMMISSIONER KERRY MCGUIRE: Aye.
CLERK: Commissioner Pineau.
COMMISSIONER ROBERT PINEAU: Aye.
CLERK: Commissioner Sparks.
COMMISSIONER JORDAN SPARKS: Aye.
CLERK: Commissioner Sylvester.
COMMISSIONER JOHN SYLVESTER: Aye.
CLERK: Vice Chair Abdi.
VICE CHAIR MALAYSIA ABDI: Aye.
CLERK: There are eight ayes.
VICE CHAIR MALAYSIA ABDI: The motion carries and the minutes for April meeting are accepted.

So the next order of business is the acceptance of public comment. So before I open the floor, I would just like to pass it over to city staff to address some public comment questions.

CLERK: Actually, Vice Chair Abdi, we were going to address those at the time of the case synopses towards later in the agenda.
VICE CHAIR MALAYSIA ABDI: Okay. Thank

you. So I will now open the floor to invite comments from the community. We will limit comment period to no more than two minutes per speaker. With that, are there any community members on the line who would like to address the Commission? And remember to please press *6 to unmute yourself.

DAVE BICKING: Hello. This is Dave Bicking, if I may proceed.

I would like to commend the Audit Committee and the Policy Committee for their work. They have truly hit the ground running. I hope the full Commission will follow up on the excellent presentation on no-knock warrants at the Audit Committee.

Communities United Against Police Brutality is starting a new focus on that topic, search and arrest warrants, and the raids that follow those, including the process of applying for warrants and the court approval. We have some additional resources that we will send to the Audit Committee.

This has received new attention due to the no-knock raid that I hope you've heard about in Coon Rapids at the wrong address due to really

shoddy work by the MPD. I also hope the full Commission will act on the recommendations from the Policy Committee on pretext stops. I hope that they will return to the topic also of positional asphyxia after the City Attorney's Office blocked them from meeting in March. So I think that's a very important thing to take back up.

I hope the Audit Committee will return to its work on police response to public protest, which I believe was also blocked for a while.

And incidentally, I want to thank the clerk for fixing the links in that Audit Committee agenda, because those are very important resources for the Commission and the public.

In your work on coaching, which you will be addressing today, please pay close attention to the letter from the Legal Rights Center, which has also been endorsed by the NAACP, the National Lawyers Guild, Voices for Racial Justice, and CUAPB. There are excellent points in there. I hope that you'll look at that carefully.

I am disappointed -- at your last

meeting at the suggestion of Commissioner Pineau, you sent a letter to the Chief. And I am disappointed that the Chief has apparently not responded to your letter, and I don't see anything on the agenda about him appearing at your meeting. Don't feel too bad. He did not respond to a similar request from the City Council.

Finally, you may have heard that just this morning, Imani Jaafar was appointed Interim Director of the Civil Rights Department. I hope there will be some information at this meeting regarding the transition at the OPCR. Frankly, I hope you will be working with someone less obstructive and more helpful. And I hope that the Civil Rights Department gets a good leader sometime soon.

In the meeting this morning, the Mayor said that they will soon be starting a search. This is almost six months after Velma Korbel left as Civil Rights Director. Shows how seriously the City is taking the Civil Rights Department and, you know, the pieces of it like your Commission.

Thank you for your time.

VICE CHAIR MALAYSIA ABDI: Thank you for your comment. Would anybody else like to address the Commission, community members? Please remember to press *6 to unmute yourself.

CHUCK TURCHICK: Madam Vice Chair, commissioners, my name is Chuck Turchick. I live in Ward Six.

Sorry about all the recent emails. You can probably tell the day if not the hour that my classes end for the semester just by looking at when my flood of email starts.

Unfortunately, this bureaucratic comment is going to take up my entire time. So the comment I would have made, I submitted through LIMS in smart sheet forms.

Maybe from what I just heard, this comment might be answered later in the meeting.

All nine of you are essentially new to (indiscernible) selection process, for the three case summaries you review each month has taken place in the past. So many monthly meetings in 2020 were not held due to COVID and the lack of a quorum that even Commissioners Cerra and Pineau are probably not familiar with that past practice. And Casey Carl is new to this process,

too. So this isn't your fault at all. Nor am I saying you're new and you have no right to change the process. You have every right to do that and should do it if it will help you get the materials in a more timely manner.

But why OPCR staff didn't tell you during last month's meeting that usually the case selection process has taken some discussion because more often than not there is a tie vote on the third request. And why Joel Fussy from the City attorney's office didn't tell you that making your case selections by being polled outside of your meetings is setting yourself up for open meeting law violations is beyond me. Maybe OPCR staff and Mr. Fussy were not in last months' meeting. And, you weren't told this during your orientation, but open meeting law violations can subject each of you as individuals to $300 fines for each violation.

I am also puzzled as to why tonight you are still going to discuss three case summaries that you did not select, just as was the case in April. After hearing my comment at the April meeting and hearing Casey Carl confirm my observation when he said there had been problems

in, quote, "Getting the accurate case summary files to you", I wish one of you had made a motion then to request for review at this meeting case summaries for the three cases you had actually selected in March.

There is a silver lining, though. If the OPCR is not going to give you the case summaries for the three cases you actually select, then there might not be any open meeting law violation since the out-of-meeting decision will have been irrelevant.

Thank you for your time and thank you for hearing this comment.

VICE CHAIR MALAYSIA ABDI: Thank you for your comment.

Would anyone else like to address the Commission? Okay.

Well, I would like to thank everyone who spoke for public comment tonight.

Since we have a number of special guests for our coaching presentation, I'd like to take the matter up next.

As you recall, coaching was originally intended to be discussed at our April meeting and was postponed at the -- to the May meeting. So I

would now like to recognize Jared Jeffries, Mayor Frey's Principal Public Safety Policy Aide, to introduce this presentation.

JARED JEFFRIES: Thank you, Vice Chair Abdi, and thank you, PCOC Commissioners for inviting me and several of the other city staff to tonight's meeting to give a presentation on coaching. We hope that this is a great opportunity for everyone in attendance here to just kind of learn more about the topic of coaching and just get a little bit more of an overview and go into some nuance about the topic as well.

I would as the clerk's office if you could go ahead and start projecting the presentation if that's possible. Perfect. Thank you. And we can go ahead and go to the next slide here.

During this presentation, we will be hearing both from the Human Resources Department, led by the Chief Human Resources Officer Patience Ferguson. For the Minneapolis Police Department, led by Chief Arradondo and Deputy Chief Amelia Huffman, and from the City Attorney's Office, from City Attorney Jim Rowader and Assistant city

Attorney Joel Fussy and Trina Chernos. And we can go ahead and go to the next slice, please.

And we'll go ahead and start off and I will hand it off to Patience Ferguson to give an overview of the coaching from a human resources perspective and how it's applied at the city.

DIRECTOR PATIENCE FERGUSON: Thank you, everyone. And I want to thank you for this opportunity to talk from the HR perspective regarding coaching in the City of Minneapolis.

Before I do that, I think it would be important for me just to give an overview of the city workforce as an enterprise.

The City of Minneapolis has over 4,000 employees. We are 92 precent union and we have 22 departments. We have an HR team who works to support the city enterprise workforce and we have four different divisions. One is Learning Development, the other is Total Compensation, Labor Relations, and HR Business Partners. So with that in mind, I want to say that I am going to come from the City of Minneapolis enterprise perspective with regard to coaching.

The topic of coaching and the way coaching is done is a generally accepted process

that is used not only in the for-profit sector, in the non-profit sector. It is also in the public sector. And it is used as a way to really work and provide just-in-time, one-on-one feedback with a developmental focus with regard to employee performance and employee behaviors. I'd like to just talk a little bit more about that.

First of all, it is a one-on-one developmental process. It provides immediate feedback and direction. It is a tool to really help employees get better and improve in their job and it's an opportunity for both the supervisor and the manager -- excuse me, the manager and the employee to really come and work together to provide and support and to help the department meet its goals and objectives.

Typically how this is used is in a performance management process. And just like many organizations, the City of Minneapolis does have a defined performance management process. We call that Performance Minneapolis -- Perform Minneapolis.

How that -- what that means from a performance management perspective is there are

components of performance management. One is around establishing performance standards. The next one is communicating those standards and then also providing one-on-one guidance and support against those standards. And that's how coaching is used. It is a tool that is developmental in focus, it is a tool that may require some direction depending upon the nature of the behavior or the performance, and it's also a way to provide guidance, support in helping that employee grow, develop, and achieve their own personal developmental goals in that particular work unit and in that particular organization. If you could go to the next slide, I'd like to share a little bit more about that.

So here is an example of non-disciplinary correct actions. Coaching could be suggesting more appropriate behavior for handling an incident and discussing future expectations for that employee. Another way that non-disciplinary corrective actions through coaching can be used is providing some direct counseling to that employee, listening to what the employee has to say, helping and working with that employee to see what some other options could be.

In some instances, it may require additional training. It may provide opportunities to do a little bit of skill development so that that individual really has the tools and the resources they need to become successful. And last, but certainly not least, there may be some other non-disciplinary actions which will really help to support and correct and redirect the employee's behavior.

JARED JEFFRIES: Perfect. Thank you so much, Patience. We all really appreciate your input from the HR side.

And now if we want to go ahead and move to the next slide. We'll go ahead and hand it off to Chief Arradondo and Deputy Chief Huffman to kind of give an overview of how coaching is applied specifically within the MPD.

CHIEF MEDARIA ARRADONDO: Good evening, Vice Chair Abdi and commissioners. Thank you for having me this evening, along with Deputy Chief Huffman.

So in the context of the Minneapolis Police Department, we do not view coaching as discipline. It's really designed as an employee performance tool.

Within the MPD, and I've certainly laid this out in my vision statement and I've said this publicly on the record, probably the most influential position within the Minneapolis Police Department is that of a sergeant or a supervisor. I expect our sergeants, our supervisors to truly be that, to be coaches, to be mentors. If they were only utilizing discipline, it would truly diminish the value and the worth of that position. We expect all of employees to grow, to learn, to improve upon their performance, and to really hone their skills to being leaders. And so coaching has been the bedrock in being able to do that.

And I say that again, that it's about learning. Our workforce comes from our society. We know that our society is not perfect. And I know that I'm not inheriting perfect individuals within the workforce. That being said, we want to continue to improve upon their skills, improve upon their performance, so that we have the best peace officers what we have within the department and that our communities can expect for that.

Some of the day-to-day examples -- and I'll certainly have Deputy Chief Huffman talk

about her most recent position as a precinct inspector. But coaching can be about helping an officer to improve their report-writing skills. Coaching can also be to address an officer's attitude as well as help with training. We are a city enterprise department that has a lot that is asked upon our employees in terms of state-mandated required training, (indiscernible) training. We have a lot of internal in-service training that is required of all of our employees. And certainly Director Ferguson knows about this, we have a very fluid and dynamic workforce and a generational workforce. Technology, for example.

When I joined the Department, we did not have the technology tools that we do today. We need to make sure that our employees are all versed on that, honing their skills.

That being said, we also want to make sure that our employees are not just relying solely upon technology, but they are having those face-to-face interactions with our community as well. Some of that could be -- some community members may think that, well, if the person is not giving me eye contact, the officer is not

giving me eye contact, that they may be rude. Coaching could be a situation like that where the supervisor sits down and talk to those employees and talks about the importance of making sure they had that really respectful engagement with our community so that they feel their voice is being hard.

Our MPD policy 2-112 outlines the non-disciplinary coaching process, which has also been consistent in the language of our Discipline Manual and Matrix system.

I will turn it over real quickly to Deputy Chief Huffman to talk about how that process works with our joint supervisors of OPCR. DC Huffman?

DEPUTY CHIEF AMELIA HUFFMAN: Thank you, Chief.

So the process that we have in place now for these coaching referrals generally begins with the intake investigator. The intake investigator will collect all the available evidence about a complaint. That can include things like the body-worn camera video, reports from our reports system, call logs through our CAD system. And they'll put all of that together

for review by the joint supervisors. The joint supervisor team is made up of the director of OPCR and our commander of the Internal Affairs Unit. And those two meet weekly to review all of the cases that are currently in the queue and make decisions about how to proceed.

So after they review the evidence that has been collected, they determine whether a case appears to be one that is appropriate for coaching. In our Policy and Procedure Manual, which I know many of you are familiar with, you'll see that some of our policies and procedures outline levels of potential discipline right there in the policy manual. And those things correspond to notations in our discipline matrix. So only the most low level policy violations would become eligible for coaching referrals.

As Chief Arradondo mentioned, often this is things like errors in report writing or the quality of reports, engagement with folks when our officers are providing service, seatbelt violations and driving violations related to minor crashes with squad cars. These kinds of things are eligible for coaching because they're

really within that area where we're working at improving our employees' performance and really trying to train, refresh on policy, provide additional supervision, mentoring, support, and sometimes things like health and wellness or employee assistance.

So once the joint supervisors have reviewed the case and determined that it is appropriate for coaching, they'll send that case file and some forms to fill out that will go to the employee's direct supervisor, who will look at it, review all the information that has been collected, do any additional investigation that's needed to determine whether there is enough information to sustain that a policy was violated and what coaching would be appropriate. And then they do that coaching with the employee and the document that on our coaching paperwork within a 30-day timeframe and then send that information back to OPCR so that we can retain it on file.

So while a violations are not considered disciplinary, repeated policy violations at the A level are eligible for enhancement. And so two As within a one-year reckoning period that are the same or similar

violations, or three violations in any period of a year then become a B-level violation, which is disciplinary and is subject to then those penalties that we talked about elsewhere in terms of written reprimands, suspension, and so on and so forth. And repeated performance issues can be eligible for discipline up to and including termination. So even though A-level violations are the lowest level of non-disciplinary, coaching for performance improvement, we do recognize the possibility that if those violations do continue, we would need to address them in another way.

So that is a quick overview of how the coaching process is applied. We've had about 741 coaching referrals that were made since 2013 when our current dashboard began keeping track, and about 31 percent of those have resulted in a supervisor determining that there was some coaching for performance improvement that was needed.

So if you have any other questions about that, I would be happy to field them.

JARED JEFFRIES: Thank you, Chief and Deputy Chief. We'll go ahead -- we have some

time for questions at the end of the presentation here, too. So we will go ahead and move on to the next slide here. There we go. Perfect.

And I will go ahead and hand it off to City Attorney Jim Rowader and Assistant City Attorneys Trina Chernos and Joel Fussy to give a legal overview of how coaching is viewed both here at the City and under state law.

CITY ATTORNEY JIM ROWADER: Thank you, Chair Abdi, members of the Commission. My name is Jim Rowader, and I am the still relatively new city attorney here in Minneapolis. I've been here since the end of August of last year. And I certainly understand this issue has been discussed on more than one occasion, even with this Commission and with input from our office.

I think before I hand it over to Assistant City Attorney Chernos, because she in our office has certainly been the closest and the closest thing we have to an expert on this issue, as she works closely with the HR organization and with the MPD.

I thought it might be helpful to give a bigger perspective from -- again, I am new to this role, but for more than 25 years, I was the

chief labor and employment lawyer for one of the largest employers not only in the state of Minnesota, but in the United States. And I just think it's important to underscore what we've heard from Director Fergus and from Chief Arradondo in the sense of -- the first thing is essentially for just about every employer, the only example of non-disciplinary guidance, or corrective action for lack of a better word, that any supervisor can give one of the members of their tam. And I think we just have to realize that without the ability to coach -- as the Chief said, sergeants are his most important and critical leaders. There's no ability to be a mentor, there's no ability to be a leader, and there's no ability to be a supporter or developer of the people that you actually supervise. And ultimately, that would just leave supervisors in the position of really not having any role other than to give direction and then walk away from the very employee of theirs on their team that they are there to actually guide. They would really have no other interaction other than when it's time to actually engage in some disciplinary activity. So I thought I would share with you

that perspective from somebody who certainly has been familiar with this base with regard to employers throughout all industries that I'm aware of.

And with that, I think I'll hand it over to Assistant City Attorney Chernos to dig into the legal issues specifically with regard to coaching at the city and the implications some of these legal nuances can have. Thank you.

ASSISTANT CITY ATTORNEY TRINA CHERNOS: Thank you, Jim. Vice Chair, commissioners, thank you for your time and your attention to issues especially regarding policing and your service on this Commission.

I just wanted to start off by explaining some of the legal nuances related to coaching. And I'll start with the fact that the state legislature defines classifications of data and then our office advises on the law as we understand it with respect to those definitions.

Some of the other state laws that come into play more specifically. So as many of you probably know, the Data Practices Act is the State Legislature's attempt to balance the public's interest in governmental activity with

certain privacy rights of public employees.

Specifically as this relates to this topic, it's important to note that the State Legislature has determined that final disposition of discipline is public. And as the Chief Human Resources Officer explained and the Chief of Police and Deputy Chief, that in the City, coaching is not discipline. It is a different type of manner to try to correct employees' conduct.

Another state law that comes into play with respect to disciplinary actions is found in the Public Employment Labor Relation Act, which mandates that public employers have a grievance procedure for written disciplinary actions.

Another item to note here is a local law that relates to coaching, and that is found in the city ordinance on civilian oversight. And it discusses that A-level violations within the police department may result in coaching. Although, as Deputy Chief Huffman apply noted, there are occasions where a multitude of lower-level violations, if they start to compound, may result in discipline.

For a detailed analysis about the

interplay between these laws and the City and coaching and where it has defined coaching as non-disciplinary, I would encourage anyone interested to see the legal opinion that our office provided in September of 2020 in response to the then chair of this Commission of the PCOC.

And I'll just conclude by stating that coaching of employees is not public because it is not disciplinary, let alone reaching final disposition of discipline. And I know as Mr. Jeffries indicated, there would be time allotted at the end for questions with the Acting Chair's approval. Thank you.

JARED JEFFRIES: Thank you City Attorney Rowader and Assistant City Attorney Chernos. I think we can go ahead now and move to the next slide and open it up for questions and answers here for anything that the commissioners may have at this point.

VICE CHAIR MALAYSIA ABDI: Are there any questions from the commissioners or discussions on this presentation? Commissioner Cerra.

COMMISSIONER ABIGAIL CERRA: Thank you. I have several questions. And I'm not sure who

would be the best to answer. So hopefully you'll just choose. So my first question is just really basic. What is discipline? Could I have a definition of that?

JARED JEFFRIES: Sure. I think, Patience, would you maybe want to start? And then I think this is going to be consistent across city enterprise interpretations. And then go to Trina as well.

DIRECTOR PATIENCE FERGUSON: Commissioner, what discipline is, and I think it was either Chief Arradondo or DC Huffman alluded to that, is when you have made several attempts through the coaching process to try to work to get a behavior changed, and all of those have been exhausted, then based on whatever that particular situation is, then that may be an option for an employer -- excuse me, a supervisor to take as a next step. And so that is an overview of what the disciplinary process is.

And then I would like to open it up to Chief Arradondo as well as Assistant Attorney Chernos.

CHIEF MEDARIA ARRADONDO: Yeah. Thank you so much, Commissioner Cerra. For me as

chief, discipline would be something that an action or conduct by one of my employees that was significant enough that it either violated policy or procedures or certainly went against the values of our department. And so obviously there is a process that's in place through the OPCR. If that investigation ultimately gets to me and the merits are there, then I would make a decision in terms of disciplining that employee.

ASSISTANT CITY ATTORNEY TRINA CHERNOS: Commissioner Cerra, if I may add to that. There are at least two places where we would look for that definition. And one is the Civil Service Commission rules, which -- and I addressed this in the opinion circulated in September. But for those of you who haven't seen that, the Civil Service Commission Rules 11.04 address and define what constitutes discipline within the city system. And that includes written warnings, written reprimands, suspension, demotion, and discharge.

And then the second place to look given that the primary focus here, at least with respect to the authority of this Commission, I should say, the Federation Labor Agreement could

come into play here as well. And it does not lay out what is discipline, at least the way that you framed your question. But it does indicate that the following actions by the police chief would be subject to the grievance procedure that I had mentioned is mandated under state law. And those are suspension, written reprimand, demotion, and discharge.

COMMISSIONER ABIGAIL CERRA: Thank you. Vice Chair Abdi, I have several questions. Would you like me sort of get back in queue, or how would you prefer me to go forward?

VICE CHAIR MALAYSIA ABDI: I think you should keep going, because I feel like a lot of us might have the same questions.

COMMISSIONER ABIGAIL CERRA: Very good. Thank you for that.

Well, sort of an immediate follow-up to what is discipline -- and thank you to the three speakers for that -- I am looking at the Civil Service Rules right now, and I'm looking at 11.04 which Attorney Chernos just guided us to. And that does describe the kinds of discipline. And under 11.04A is a warning. And it says, "A disciplinary warning" so that would be

discipline, "includes a verbal discussion between the employee and the supervisor covering the details of the problem, plans for correcting the problem, and a written memo to document the event". And based on Attorney Chernos' memo from September, that is precisely what the coaching process is within MPD. There is a verbal discussion between the supervisor and the focus officer. There is a discussion of what was -- you know, what was a violation and what is the plan moving forward. And then there is a coaching documentation form that must be filled out. And that form is attached as the last three pages of Attorney Chernos' memorandum. I believe it's Pages 35 through 38 of the PDF document.

So I'm just trying to understand. That is identical, that process is identical. And simply stating something is discipline or not discipline doesn't automatically make that true under the law, particularly if it does everything that discipline does. So perhaps someone could speak to that and explain the distinction between a warning under the Civil Service Rules.

JARED JEFFRIES: Thank you, Commissioner Cerra. I think if we want to start

with Assistant Attorney Chernos and then maybe move into MPD and maybe HR, get the HR perspective as well.

ASSISTANT CITY ATTORNEY TRINA CHERNOS: Thank you, Vice Chair Abdi and commissioners.

I can certainly understand that all of these Civil Service Commission rules, ordinance, you know, things are subject to interpretation.

In the City, we have a practice of trying to always make sure that an employee leaves a conversation understanding whether discipline has occurred or not. I want to really emphasize, and I think this is really important to understand, is that there is no obligation to document coaching. But the MPD utilizes a coaching documentation form in part for accountability. And I'm sure that DC Huffman and the Chief could probably explain this better than can I. But it's a way to make sure that the supervisor who had the conversation with the employee documented that. But it wouldn't necessarily go into the elements that are in 11.04 warning, which includes details of a problem, plans for correcting the problem, and a written memo to document the event.

The coaching document is more to indicate that it occurred and that the case was resolved or proceeded under the city ordinance with respect to Category A Level violations and coaching.

Written warning, as is set out in the Civil Service Commission Rules, is for something that is actually disciplinary, and the document would be different. We use in the City either the Chief's discipline memo for the MPD or what's called a determination letter in the City. And the subject line of that document indicates, or elsewhere in the body of that letter will indicate what is being imposed with the employee and will indicate that it is a disciplinary measure. And then the key part of that, which is very different than the coaching document in the MPD is that it will state at the bottom that further misconduct will result in discipline up to and including termination. And that's not what coaching documents under either the MPD system or other labor agreements within the city system would show.

JARED JEFFRIES: Thank you, Assistant City Attorney. If we want to go ahead and hand

that off to Deputy Chief Huffman if you want to -- if there is anything to add from the MPD perspective or to Patience, if you want to add anything from an HR perspective.

DEPUTY CHIEF AMELIA HUFFMAN: Thank you. In terms of the MPD perspective, I think for us there is a really significant difference in how we approach coaching for performance improvement than how we approach discipline in terms of the timeliness of it. We are able to handle coaching referrals much more quickly than we do disciplinary cases because disciplinary cases require much more significant investigation in order to handle those and prepare for a potential grievance or arbitration that would come out of a disciplinary proceeding. And so we do focus on getting the coaching referrals through the system as quickly as we can and out to the supervisor. And they don't require the kind of lengthy statement taking and written reportings because they are not disciplinary. So we can really focus on a supervisor connecting with the employee, building that relationship between the supervisor and the employee, looking for ways to set expectations for the outcome,

looking for opportunities to provide coaching and also support, having conversations about what might be at the root of the issue for the employee, whether it is a need for more training or more support, or it's looking at reengagement or reinvigorating the employee or making some other kinds of changes in support of a better outcome, supporting better decision-making. There's really a whole host of possible outcomes. But at the end of the day, those outcome are not grievable and so we are able to really provide that kind of intervention without going down that very adversarial pathway that we do when we have a disciplinary case. So that's one fundamental difference between those two pathways.

And then I can turn it over to Patience Ferguson for some additional information.

DIRECTOR PATIENCE FERGUSON: I do not have anything to add to what has already been said. Thank you for the opportunity.

COMMISSIONER ABIGAIL CERRA: Thank you. I actually have a question -- I believe it's for Director Ferguson, but perhaps Director Ferguson and Attorney Chernos.

It sounds like there's two different

things that are called coaching. It sounds like within the HR department, there is coaching that is informal, spontaneous, and it's used more or less constantly between the supervisor and the employee. And that's one coaching. And then within the MPD, there is this other thing called coaching, which we've been talking about here today, which is a very regulated process. It is not spontaneous. There is some sort of complaint or observation or escalation. And then there is an investigation. And then if the investigation is sustained or it looks like that misconduct occurred, then there is this very regimented coaching process and there is of course the coaching form to be filled out. So that seems like two very separate processes.

JARED JEFFRIES: Thank you, Commissioner Cerra.

Assistant City Attorney Trina Chernos, do you want to go ahead and start? And then we'll move over to Patience.

ASSISTANT CITY ATTORNEY TRINA CHERNOS: Yes, thank you, Vice Chair and Commissioners.

With respect to the comment or impression that coaching is very regimented, I

just wanted to clarify that one of the differences between coaching and discipline would be that coaching can occur long before the coaching document is filled out. In other words, the supervisor could have a conversation right then and there with an employee. It wouldn't even need to necessarily go through -- actually, a coaching conversation could occur before a formal complaint is even submitted. So that's first.

And then another aspect of this would be that unlike a conversation that might lead to discipline, there is no right to a union representative present during that conversation.

One of the statutes that I didn't mention at the outset, just trying to keep this simple, is the Police Officer Discipline Procedures Act. And that also needs to be taken into account with this.

So if the MPD could not have more casual conversations right in the moment and without a really regimented structure, that would delay being able to take action with that officer and would require all the formalities that are set forth in that Peace Officer Bill of Rights,

or the Discipline Procedures Act as it's officially titled.

COMMISSIONER ABIGAIL CERRA: Isn't that different when there is a sustained complaint? So there has been this investigation and it's sustained and then you're doing the coaching. And within the city, 90 percent of sustained complaints result in coaching.

ASSISTANT CITY ATTORNEY TRINA CHERNOS: Not necessarily. As far as -- I think as I am understanding your question -- please feel free to correct me if I am misunderstanding it, which is that not every sustained complaint must result in discipline. In other words, not every sustained violation of the MPD Policy and Procedure Manual would result in discipline.

VICE CHAIR MALAYSIA ABDI: And that's a change, isn't it? Because, let's see, Section 5-101.02 of the MPD Manual says that discipline shall -- you know, operative word shall -- be imposed following a sustained violation. And that was removed in -- I don't know the date. I think it was removed December 31st of 2020. So it was removed very recently. Why did the City remove that requirement?

ASSISTANT CITY ATTORNEY TRINA CHERNOS: The MPD Policy and Procedure Manual was revised to clarify its existing and documented policies and procedures and practices. And understanding -- and I had addressed this in the memorandum from the City Attorney's Office back in September -- which is that once the City knows that a provision is subject to misinterpretation, then the City proactively went about working on revising that policy to avoid misinterpretation in the future and to align it with all of the other writings that indicate coaching is not discipline. And when the announcement went out, it explained that it was a clarification. And that it was inaccurate that not all sustained violations had to or were resulting in disciplinary action.

COMMISSIONER ABIGAIL CERRA: So the intentional policy of the MPD is there could be a sustained violation and it is possible that it intentionally would not result in discipline, not even a warning?

ASSISTANT CITY ATTORNEY TRINA CHERNOS: So, you know, I don't want to speak for the police department here, and I am not. I'm just

trying to refer to some of the documents that were attached to the materials back in September.

And as the MPD's discipline matrix indicates on the last page of that document which is attached to the legal opinion, that based on the category level in there, that could mean that it's not a disciplinable offense. So it could be a sustained violation, but a violation of a Category A level, just as the ordinance indicates.

COMMISSIONER ABIGAIL CERRA: The schedule of discipline that you included in your memo, Attorney Chernos, it indicates that coaching is available for all levels of misconduct, A through D. So a very serious misconduct, such as excessive force, could under the Schedule of Discipline result in coaching, which as, you know, everyone on this call has explained is not considered discipline and thus not public and all of that.

So can you speak to why all levels of misconduct and thusly all sustained complaints would not be subject to any level of discipline?

ASSISTANT CITY ATTORNEY TRINA CHERNOS: I think that's a better question for the police

department to address how they approach their matrix and how it works in practice.

DEPUTY CHIEF AMELIA HUFFMAN: Thank you, Assistant City Attorney Chernos.

So if you take a look through the matrix document that we have, you will see that many of the policy violations here corresponding to what's in our policy and procedure manual are defined with ranges that do not include A violations. And so those are not policies that we would send into the coaching referral process.

So during that initial meeting between the Joint Supervisor Team, the Commander of Internal Affairs, and the Director of OPCR, they're taking a look at what is in the complaint and what evidence the intake investigator has been able to gather and making a determination about whether there is a policy violation that would not be subject to coaching, that's not part of those A-level referrals. Because as you'll see if you look at the Discipline Matrix, many of our policies and procedures are identified specifically with ranges that do not include A violations.

So, for example, everything in the Use

of Force category does not include an A-level referral as a possibility.

COMMISSIONER ABIGAIL CERRA: But under the Schedule of Discipline, it specifically says a D-Level violation could have a range of coaching all the way through termination.

DEPUTY CHIEF AMELIA HUFFMAN: So if you take a look at our matrix, when you see the ranges, many of them are only D or C to D or B to D. Some of them specifically do not include A referrals.

COMMISSIONER ABIGAIL CERRA: Oh. So tell me if I have this right. If it's something -- let's say a body camera something violation, and that says A through D, then since it's possible to be an A-Level, that is the thing that makes it eligible for coaching on your schedule of discipline. Is that right?

DEPUTY CHIEF AMELIA HUFFMAN: Yes, that is correct.

COMMISSIONER ABIGAIL CERRA: Okay. So under your understanding of the matrix, something like excessive force would not be eligible for coaching.

DEPUTY CHIEF AMELIA HUFFMAN: Yes,

that's correct.

COMMISSIONER ABIGAIL CERRA: But Derek Chauvin committed multiple acts of excessive force, and he was coached for it.

DEPUTY CHIEF AMELIA HUFFMAN: So I can't speak to the specifics of those cases because there are ongoing investigations and litigation around that.

So in generally I can say that our policy is written with the intention to only refer things for coaching that are considered to be low-level violations. And so force violations, use of force violations themselves are not included in those coaching referrals.

COMMISSIONER ABIGAIL CERRA: Then does anyone on the call have information about why Derek Chauvin was not disciplined for multiple instances of excessive force?

JARED JEFFRIES: I think as Deputy Chief Huffman had said, that there is a lot that goes into this process and what we legally can and cannot say. And I think Director Ferguson, I think she wanted to chime in here, too.

DIRECTOR PATIENCE FERGUSON: Yes. Thank you very much. Just another -- I know that

it seems like we're going down this path with respect to MPD. But I also want to make sure that we are looking at the broader picture of how we are doing this from an enterprise side perspective. And so we want to also look at this in context of how this is viewed in the enterprise. I think that's really important just to reinforce. And it was my understanding that we were going to be looking at this specifically around the enterprise perspective. Am I not clear on that, or do I need to get more understanding around this? Because it seems like we're going over here and beginning to use one specific example. And my concern is are we being consistent in terms of coaching, or what we are trying to do is say in some way that the City -- and bear with me, because I'm very new to these meetings. So please take this in the context and the spirit that it's being given.

When I look at things, I'm looking at things from an enterprise perspective. But it seems like now we're going specifically down this path. And so I'm just -- I need a little bit more clarity around this. Is this something that our City Attorney can provide some more clarity

around so that I can get a better understanding? I think that would be very helpful.

COMMISSIONER ABIGAIL CERRA: Director Ferguson, just from my line of questioning, I'm trying to understand coaching at the enterprise level. You know, just like coaching and what that means and wrap my arms around it. And in order to do that, I think it's really important to understand some specific examples. And, I mean, it's natural to pull out the most egregious specific examples.

And so that's why I called out Derek Chauvin beating a juvenile over the head with a flashlight and rendering him unconscious and kneeling on his back. That was excessive force. And he was coached for it. He wasn't disciplined. And I think that's something we need to contemplate in this discussion around coaching.

And I see a lot of my colleagues also have questions. And I don't want to, you know, take the oxygen out of the room, so I'm going to let my other colleagues step in here.

VICE CHAIR MALAYSIA ABDI: Thank you for your questions, Commissioner Cerra.

Commissioner Pineau?

COMMISSIONER ROBERT PINEAU: Yes. I had a really interesting question for -- I'm sorry, I don't remember your title, please forgive me. Ms. Huffman, if you are available to speak.

And you mentioned particularly timeliness in regards to coaching versus discipline. And I think that's something that at the end of the day the definitions confuse me. They're not just confusing to anyone else who isn't saying it and just thinking it. They confuse me as well.

The thing I care about is that when there is some sort of violation that is sustained and the City in some level takes efforts to correct and learn from said sustained violation, that we do so in a way that is both timely, transparent, and effective. And I think, at least I hope that is a shared intention for everybody who is on this call.

And you mention this idea of coaching is able to be more timely than going through the full discipline process. Could you speak as to why that is the case? What are the actual

procedures, the mechanisms, the paperwork, anything that is the difference between some decision of coaching versus the extra mile, if you will, to discipline.

DEPUTY CHIEF AMELIA HUFFMAN: Sure. That's a great question. I thank you for asking it. Hopefully I can give you a pretty good answer.

So coaching as a process and administrative investigations that can result in discipline are two very different animals. So when we look at coaching, hopefully that is the most timely process we have. I mean, ideally we would really like to have the shortest possible lag time between a supervisor recognizing that there is something that we would all benefit from investing some coaching in, or the department receiving a complaint to let us know that something happened that we need to take a closer look at and talk to our employee about to really get to the bottom of what happened and hopefully orient everyone on the correct solution going forward. It's not as instantaneous as we would like of course because there is a procedure that takes place.

Generally how long that process takes is governed by sort of the amount of workload that's coming into the pipeline. The joint supervisors meet once a week. They have several hours a week, they have several hours set aside to just review cases that are in queue. So those are complaints or referrals that have been received either from internal city enterprise folks, other department employees or members of the public and whatever information that the intake investigator has put together. And then they make a determination about whether it is appropriate for that to go out to coaching or whether it's going to go into the pipeline for a full administrative investigation.

So if it goes into the coaching pipeline, then essentially the investigation that happens before the conversation with the employee is quite short because we're not taking all of the steps that we would in an administrative investigation, which would include taking very formal statements from a complainant, from everyone who might be a witness, from the officer who is alleged to have committed the violation, from other department employees, potentially from

subject matter experts inside the department. So, you know, that can be quite a big undertaking for us. The scheduling of those interviews takes time. Typically we do them one after another with the focus officer being the very last interview so that you have as much information from the investigation, all of the witness statements, subject matter expert statements, the evidence from reports, from body-worn camera, other kinds of physical evidence that might be collected in a case or video evidence from outside sources. Really it's sort of parallel to a criminal investigation in terms of the kind of evidence that you might be collecting. So that can take many months to complete before you take the final statement from the focus officer.

And then that case goes to a panel made up of two civilians and two sworn staff from the department. They review the investigative summary and the evidence that was collected and they make a recommendation to the Chief about whether they believe that there is merit to the allegation or not. And then that case will come to the Chief's office for review. And we do some additional processing on this end in terms of

giving the employee an opportunity to provide some more information to us before the Chief makes his final decision.

So there are a lot of steps in that process, and it can take quite a long time.

COMMISSIONER ROBERT PINEAU: Okay.

DEPUTY CHIEF AMELIA HUFFMAN: Coaching, on the other hand, gets a review at the beginning by the intake investigator and a referral into the coaching pipeline. And then immediately is at the point where the officer's supervisor is sitting down with them and talking to them about what happened. And we like to have that happen within 30 days.

So the timeline in comparison can be much shorter and much more direct than in a disciplinary investigation, which after all of those steps in the investigation, those things that we need to have happen so that we can get that threshold of showing that there is just cause to discipline someone. You know, that there was an investigation that was thorough, that was fair, that proof was really collected that the violation occurred. And then we can go into the grievance procedure after that. So that

drags the timeline out even longer.

There's a grievance period where people have an opportunity then to file their grievance. We try to negotiate the grievance. If we can't negotiate the grievance, then it can get scheduled for arbitration. That can drag on, preventing us from reaching that final disposition state for sometimes more than a year after the case has already been completed for an administrative investigation.

So the timeline for discipline can be much, much longer than the timeline for coaching.

COMMISSIONER ROBERT PINEAU: Okay. Thank you.

DEPUTY CHIEF AMELIA HUFFMAN: That was a long answer, but hopefully it helped a little bit.

COMMISSIONER ROBERT PINEAU: It was a long answer. And my second question I hope picks at some of this. Because I feel like -- and correct me if I'm wrong -- there are multiple entities that have stake in the game along that process that you described for us that have had different ways in which they've either negotiated an agreement of how that procedure has come to be

in its current form or there is some other standards, either internally with MPD, or from the state. But I don't know that to be sure. Could you explain to me for the discipline process -- the discipline process itself, who mandates what stages of that discipline process? And is it coming internally with MPD, or is it coming from an external source, or is it negotiated at some point all the way from, you know, you found that it's not going to be coaching all the way through -- oh, I wish I remember the phrase that you used -- I mean past arbitration. You know, can you give us the entities that are involved in that and that are mandating each part of that process?

DEPUTY CHIEF AMELIA HUFFMAN: Yes. That's a great question, and I'll make my answer much shorter this time.

But all of those things you said play a role in it. So there are externally standards that we have to meet in terms of the law. There are internal things that we have to hit because we have negotiated agreements, and we have policies and procedures. And then we also know that we have the potential for these cases to go

to arbitration. And so we know we need to be able to show that we have handled the process correctly and the investigation is thorough and strong enough so that we can hopefully survive an arbitration. And I'm sure that Assistant City Attorney Trina Chernos can weigh in with some additional information that I have no doubt she is chomping at the bit to provide about how those components work together to create the system that we have for those administrative investigations.

COMMISSIONER ROBERT PINEAU: And if she is not able to speak on this matter, I would love for -- and excuse me for forcing to be a little bit more explicit. Just so that way in case we don't already know, could you tell us the other entities that are involved? I mean, the state laws are obvious, city level laws are obvious. But when we talk negotiation, are we talking with union contracts? If so, which unions? Are we talking with other core standards that are shared amongst municipalities? If so, what core standards? If you could give me names of these so that way I know the bodies that are involved.

DEPUTY CHIEF AMELIA HUFFMAN: Sure.

And I think that Trina will probably give an even more complete answer than I can. But certainly state law, some of which has been referenced before, 626.89, the Peace Officer Discipline Procedures Act. We have (indiscernible), we have civil service rules, we have the contract that we -- that the police department has with the Police Officers' Federation. For city enterprise, I'm sure Director Ferguson can weigh in as well about the other labor contracts. But all of those contracts have language in that. And then of course we have arbitration and the standards that we know are necessary for us to be able to show that there was just cause for discipline, which is the magic language.

COMMISSIONER ROBERT PINEAU: Yeah. Okay. And then I guess my final question is there seems to be in the year that I've been involved and exposed to this idea of coaching versus discipline, this idea around -- and pardon me for being frank, it's just I'm the messenger here -- that coaching is not transparent enough and it is a tool that could be used for less-than-ideal purposes, that therefore we need things to be out into the light in an effort of

transparency.

On the other hand, what you just said here today was coaching is a really useful tool to make sure that we're having effective learning moments and corrections that are at least able to be responded to faster than the discipline process that you explained. It may be a naïve opinion, but why can't we have both? And having both the transparency that members of the public tend to have a concern about versus the timeliness that you have explained behind coaching.

What is the barrier that's limiting this process to allow whatever it is, whether you want to call it coaching or discipline or whatever, the response to sustained violations, what's limiting us from being both transparent and timely?

DEPUTY CHIEF AMELIA HUFFMAN: Sure. So a couple of things probably. In terms of the timeliness, discipline investigations, administrative investigations take time. We only have a certain number of investigators either on the internal affairs side or the OPCR side. We are very fortunate that the Mayor's budget did

allow for some investments on the OPCR side to bring the number of investigators up. That will reduce timelines. But nonetheless, having done this kind of work myself in the past, these things just take time, more time than coaching will take. So to get an administrative investigation to be as timely as coaching is probably not realistic.

And in terms of transparency, then we're back to talking about data practices law.

COMMISSIONER ROBERT PINEAU: Is there anything -- and I am not a lawyer. I've been told multiple different perspectives on this that I'm sure we could go into if we wanted to. Given we cannot change state law unilaterally here in the City, is there something feasible we can do to adapt to the way the data practices law is now, but try to reach that transparency goal that it seems like there is an interest in, or is that just not happening.

DEPUTY CHIEF AMELIA HUFFMAN: I think that if transparency were our paramount goal, you might find that we would have other significant downsides to that that would -- that people would find to be significant downsides.

COMMISSIONER ROBERT PINEAU: Such as?

DEPUTY CHIEF AMELIA HUFFMAN: If we handled every case as an administrative case to run through our official discipline system, you know, the timelines for every case, including the serious ones, would go longer because we would be doing a full administrative investigation on many, many more cases. And so it would just take longer for everything.

At the police department at this point in time, we simply do not have the staffing numbers available to massively increase the size of our internal affairs investigative unit. And OPCR doesn't currently have the budget to massively increase the size of their investigative team. So we wouldn't be able to then shrink those timelines back down by simply providing more people to do that work.

And then even if we did -- you know, we were successfully able to address that issue, we would also then have an issue that every single one of these cases would now become grievable. And so that final disposition for discipline would be pushed out, would be pushing many, many more cases into the arbitration system and into

the grievance system. Those timelines would get longer, and we would not reach a final disposition in anywhere near the timeline that we are looking at now, which is already long. And many of those cases would not be decided in our favor. Just statically, we win about half, maybe a little more than half of those cases. Ideally, that will get better over time now with some investments that we're making and some changes in the arbitration system. But at this point, I think those would be pretty significant downsides.

COMMISSIONER ROBERT PINEAU: All right. Well, thank you very much. I'm going to hold off on the rest of my questions and yield the time to my colleagues. Thank you so much.

DIRECTOR PATRICIA FERGUSON: I would just like to make a quick comment regarding the transparency piece related to coaching. And it gets back to a question I had a few minutes ago that we are also looking at this from an enterprise perspective. And so if we're looking at it in an enterprise-wide perspective regarding transparency and coaching, we're now talking about 4,000 people within the City of Minneapolis

who were working to develop, grow, enhance their skills. And so then -- and I'm going -- you know, just the question was asked what would be wrong with transparency. And I'm just not talking about the discipline piece, I'm specifically talking about the coaching piece. And so now say that that was open, we still as an enterprise perspective -- and that's what I'm bringing to the table -- that means that 4,000 employees would also -- if that in some way was taken into consideration and that law wasn't there, that's regarding looking at our future workforce, and every single time a person was coached, that is creating somewhat of a -- possibly I should say, a disconnect between someone who is really trying to grow and trying to develop, but then knowing that that could potentially open that up to a lot of other things.

So I just wanted to bring that in. I'm always going to be looking at things from an enterprise. I know that this is specifically maybe looking at more narrowly-focused for police. But what impacts one particular department in the City also could potentially

impact the other 21 departments in the entire enterprise. So that's just a comment and just a thought.

VICE CHAIR MALAYSIA ABDI: Thank you. I just want to thank everybody for asking their questions. I wish we could continue this conversation. I have a lot myself. But, unfortunately, we have to move on. But thank you and thank you for our presenters.

With that, I will direct the Clerk to receive and file this report.

We will now take up the case summaries -- okay. Actually, it's reports. So I want to recognize Commissioner Cerra, who will present the Policy and Procedures Subcommittee Report.

COMMISSIONER ABIGAIL CERRA: Okay, thank you. Hi, everyone. We had a great Policy and Procedures Subcommittee meeting. Yay. Two excellent topics that we discussed. The first was traffic stops or pretext stops, and the second was a presentation from Councilmember Gordon about, I'll call it a framework for changes to police oversight.

So taking the two in turn, we had a presentation from an attorney, Jay Wong utilizing

MPD data from the dashboard on traffic stops in the City of Minneapolis. And that's available on our agenda.

Basically what I can say about those numbers is that they were really staggering. The racial disparities in the number of who was stopped, who was searched, who was pulled over was, even as someone who has done this work for quite some time, it was staggering. Black and East African people are more likely to be pulled over by a factor of ten than other people in the city. And so essentially what he provided us with was this data that something needs to change around these pretextual traffic stops.

And one thing that we discussed within our group was some proposed language to limit traffic stops or pretext stops. This language came from the Minnesota House of Representatives. It was authorized by Representative Frazier. It was ultimately included in a larger public safety omnibus bill that did pass the House and is currently before the Senate. And so we as a group voted unanimously to escalate that language to this group, to the full Commission, to vote up or down whether we should send that language to

the Council and the Mayor and suggest that each of those bodies take action.

So in the case of the mayor, what the Mayor could do, along with the Chief of Police, is to voluntarily adopt that language as the MPD policy. So even if it didn't pass the Senate this year or it passed in a different way, or whatever happens with the state senate, the City or the Mayor could choose to make that the City policy, to limit traffic stops and pretext stops to extremely limited circumstances that involved safety.

And as far as the City Council goes, the City Council could do a couple of things. One, they could refer it to their IGR, Intergovernmental Relations Lobbyist, and ask them to support this omnibus bill before the State Senate. The Council could also pass an ordinance that either mirrors this language or picks up part of the language or, you know, does something around that. And the Council could also report to the -- or give a direction to the City Attorney's office, the prosecutors there, that they don't want the City to prosecute offenses arising out of those kind of traffic

stops.

So, you know, the Mayor and the Council have different roles within the City, but they each could take some action.

So I think before I move on to the second piece from Councilmember Gordon, I wanted -- I should maybe stop and welcome any questions from the other Commissioners who weren't part of that subcommittee.

Commissioner Jackson? I mean Pineau. Sorry.

COMMISSIONER ROBERT PINEAU: It's all good. I'm looking at the presentation. And just because I have to ask, did Mr. Wong provide a methodology behind the data within his presentation? I don't see it here. And I just feel the need to ask from an audit perspective. I would love to look at the methodology behind it. I'm sure it's pretty straightforward in an Excel table. But do you know if you have that?

COMMISSIONER ABIGAIL CERRA: I don't remember him using the word methodology. He described gathering the data from the MPD dashboard and, you know, putting the numbers together. And he looked at different timelines.

So he looked at timelines leading up to the murder of George Floyd and then a period of six months afterwards just to see if there was a change. And he controlled for other factors such as the total number of stops. The total number of stops were reduced during the pandemic for, like, all these reasons. But even when the total number of stops were reduced, the rate stayed the same. So, like, the percentage.

So I don't remember him using the word methodology, but he -- those were things he used to described what he put together.

COMMISSIONER ROBERT PINEAU: But no, like, written documentation of, like, the original data source he pulled from, the ways in which he cleaned up the data and then applied that, and then kind of like the rough draft, if you will, of constructing the presentation? Did he, like, follow up with anything like that by chance?

COMMISSIONER ABIGAIL CERRA: He didn't provide any additional documentation. I'm sure we could ask him. He's extremely, you know, available.

COMMISSIONER ROBERT PINEAU: Yeah.

COMMISSIONER ABIGAIL CERRA: He said his source of data was the MPD dashboard.

COMMISSIONER ROBERT PINEAU: And he noted as such on the PowerPoint, which is a great starting point. I would just love to see how got from A to B, you know? And it's -- it's the only like quirk that I have about it of just like, you know -- it's the equivalent right now of like, you know, in math when the teacher show how you got your answer. Like we have the answer but we don't know how we got to the answer and would love to just look at that.

COMMISSIONER ABIGAIL CERRA: I can send him a follow-up email if that would be helpful.

COMMISSIONER ROBERT PINEAU: Yeah. I mean, if you could that would be great. Yeah. Just -- that's -- we're an evidence-based group, right, and I want to make sure before we put our name on something that we're at least making sure we got a cursory look at how that evidence came to be. Not that I'm doubting it at all. I would be surprised if he made a mistake, but, you know, I just -- you know.

COMMISSIONER ABIGAIL CERRA: I believe that he reported it to the Star Tribune last

summer, perhaps August, and the Star Tribune verified the data at that time.

COMMISSIONER ROBERT PINEAU: Oh, cool. Okay.

COMMISSIONER ABIGAIL CERRA: And then he provided us sort of that updated piece like the six months following that August. So I don't know. Any other questions about the data or this language that we voted on? In such case, I will bring -- I'll make a motion to the full commission. I move that the chair of the commission or the chair and the vice chair share this language with the council and the mayor and encourage them to take action at the city level to adopt or amend and then adopt this language -- this policy -- for the city of Minneapolis.

COMMISSIONER JOHN SYLVESTER: I will second -- Commissioner Sylvester.

COMMISSIONER ABIGAIL CERRA: Any discussion on the motion? Does the clerk then take roll if it's been seconded?

COMMISSIONER ROBERT PINEAU: Yeah. This would be an act of the PCOC's so if this is a action of the PCOC, we need a roll call in order to verify that this was a formal act

approved by a majority of the commission.

CLERK: On the motion, Commissioner Cerra.

COMMISSIONER ABIGAIL CERRA: Aye.

CLERK: Commissioner Crockett.

COMMISSIONER JORDAN CROCKETT: Aye.

CLERK: Commissioner Jacobsen.

COMMISSIONER LYNNAIA JACOBSEN: Aye.

CLERK: Commissioner McGuire.

COMMISSIONER KERRY MCGUIRE: Aye.

CLERK: Commission Pineau.

COMMISSIONER ROBERT PINEAU: Aye.

CLERK: Commissioner Sparks.

COMMISSIONER JORDAN SPARKS: Aye.

CLERK: Commissioner Sylvester.

COMMISSIONER JOHN SYLVESTER: Aye.

CLERK: Vice-chair Abdi.

VICE-CHAIR MALAYSIA ABDI: Aye.

CLERK: There are eight ayes.

COMMISSIONER ABIGAIL CERRA: Thank you. And we did have one more piece that was discussed during our subcommittee meeting. It was a presentation from Council Member Kim Gordon. He did include a two-page document that I shared with the commission that -- it was not a proposed

change to the ordinance. It wasn't like a hard, you know, ordinance language. It was rather a framework that he is using to guide his discussions around potentially changing the ordinance for police oversight.

And what he offered to us as a commission is that we could do a couple of things. We could sort of, you know, vote to like approve this framework and, you know, give him a thumbs-up essentially and give him that backing. We could -- he offered that we could take this and, you know, have our own commission meeting on it or have an additional special meeting about it and invite public comment or, you know, do what we would.

I think both are good ideas. I think that he took the time to come to us with this presentation. We discussed it in our subcommittee and we all thought it was consistent with our goals and with the national standards for civilian oversight. And we thought these -- this framework was positive and we endorsed it and we would like the full commission to endorse it.

And I think there's a lot of

opportunities here for us as a full commission, whether we wanted to have, you know, a special meeting or invite community comment at a future meeting or, you know, (indiscernible) in that way. I think there's a lot of opportunities there. I see a hand from Commissioner Pineau.

COMMISSIONER ROBERT PINEAU: Yeah. I just remembered. We have an ad hoc ordinance committee, right? Do you think that this might be something that would be a beneficial conversation within that context?

COMMISSIONER ABIGAIL CERRA: Yes. And my understanding is that committee is -- subcommittee -- is not meeting, but it could be at any time. So perhaps this is a good time to, you know, bring it back to life, as it were.

COMMISSIONER ROBERT PINEAU: I'd be happy to move and refer this to that committee if that does not raise any objection with anyone.

CITY CLERK CASEY CARL: Commissioner Pineau, it's Casey. I just have to ask, are there members appointed to this ad hoc committee or do we also then have to appoint members to this committee?

COMMISSIONER ROBERT PINEAU: I do

believe that would be an answer for our chair who is not present. I'm not informed well enough on the membership of that ad hoc committee.

WOMAN 2: When I was given the list of subcommittee membership by the chair, it did not include the ad hoc committee. So I'm guessing there is not membership at this time.

CITY CLERK CASEY CARL: My recommendation is to expedite any action. You keep it within one of the two existing subcommittees since those are formed. They have members and they have meeting dates.

COMMISSIONER ABIGAIL CERRA: Thank you. Commissioner Pineau, I wonder if this is perhaps best to stay with the PMP subcommittee in that, it's not a quantifiable research project that would be audited, if you understand my meaning. But I -- you know --

COMMISSIONER ROBERT PINEAU: I agree. It's more germane within policy and procedure, but I'll yield to our vice-chair and the clerks to make the decision on that -- on the point of germaneness.

CITY CLERK CASEY CARL: Seems like the co-chairs have concurrence that it stays in

policy which seems to be a broader subject matter area rather than audit.

COMMISSIONER ABIGAIL CERRA: Thank you.

VICE-CHAIR MALAYSIA ABDI: I agree.

COMMISSIONER ABIGAIL CERRA: I'd like to make a motion, then, to the full commission to vote yay or nay on whether we endorse this framework and that would just be a basic endorsement, like, yes, we agree with this or no, we don't. That way we know if we should be doing a lot of work in the subcommittee. That would send a message to the council, like, yes, this is good or no, it's not. You know, I would really just like to have sort of an up or down vote.

So I would make a motion on endorsing this as a full commission.

COMMISSIONER JOHN SYLVESTER: Point of information. Is there -- if we're voting on this, do we need to it to a subcommittee or are we just going to go through the discussion and vote on it now?

COMMISSIONER ABIGAIL CERRA: I don't -- I think if we took it to a subcommittee that would be for further work and this is a framework. You know, the subcommittee might

propose an actual ordinance change like adding subsection B to 170. You know what I mean? This is more of a framework.

MR. CARL: Commissioner Cerra, so my understand of your motion is that this is a vote to endorse a concept, or, as you used, a framework, of a plan presented by Council Member Gordon, not a uniform endorsement of the entire thing as it was presented. It's, in concept, in theory, the commission supports the ideas and would submit it back to the policy and procedure subcommittee for further refinement, potential public engagement, et cetera, as discussed.

COMMISSIONER ABIGAIL CERRA: Yes, Mr. Carl. I think that is a much more eloquent way of summarizing my motion. Thank you. Is there a second?

COMMISSIONER JOHN SYLVESTER: Commissioner Sylvester. I'll second.

COMMISSIONER ROBERT PINEAU: Is it possible to have discussion on this, just that way we'd like -- we can go over it and make sure that there isn't something, you know, in here that conflicts with what we want. In general, it looks like everything's fine here, but I'd love

to hear discussion from our -- all our colleagues on this, if possible.

COMMISSIONER ABIGAIL CERRA: Would any commissioners like to comment on this matter? Commissioner McGuire.

COMMISSIONER KERRY MCGUIRE: I first look at it -- it's something I agree with and what I would just like to know more about and maybe if you were provided with materials about what other -- you know, what has been proposed and excluded from this framework that we have in front of us and just kind of alternatives -- maybe alternative wording or additions or subtractions that have been taken from this model. Just because this is not an area that I'm very familiar with, like, you know, law around traffic stops and what the police might have to stop someone for. I'm just looking at the wording of like a mandatory secondary offense versus a (indiscernible) secondary offense. So I guess there's questions like, are we butting up against the edge of the law, what the police can and cannot do as it exists or not. And I didn't know -- are there other materials that went into the talk about the background of that?

COMMISSIONER ABIGAIL CERRA: So to answer that question, Representative Frazier did go through a rigorous process within the state house in, you know, writing this as a proposed law for the state of Minnesota and you know, that whole process. And at this moment, I think the motion concerns the framework from Council Member Gordon which is a separate -- we had two presentations so it -- I'm sorry for so much information in a short time.

But the second presentation was from Council Member Gordon about potential changes to civilian oversight within Minneapolis and what that might look like, and he gave us a two-page document. It's rather short. It's meant to be an overview. It's not meant to be, you know, a deep dive or statutory or anything like that. What he would like to know, basically, is, am I going in the right direction, and he would like to continue this discussion over the summer, you know, getting input from community groups, other agencies, you know, so on.

COMMISSIONER JOHN SYLVESTER: Okay.

VICE-CHAIR MALAYSIA ABDI: I would need more time on -- just like look into it more. I

don't know if we had to vote on it now, but -- I see Casey's hand up and then Commissioner Pineau.

CITY CLERK CASEY CARL: Madame Chair to Commissioner Cerra, perhaps a better way of framing this, then, because I hear concern about, what is the intention of this vote and I did attend the subcommittee meeting and was there for Council Member Gordon's prestation and perhaps we could revise the motion, if you concur.

I think the intent that the council member was hoping to get is, does the PCOC support potential changes within the city's code of ordinances that deal with this group's authority in line with his two-page proposal for changes. I think rather than saying yes, the motion tonight is we endorse it, because that seems like we've read it, we agree with all the two (indiscernible), maybe the question is, should it continue to be researched, refined, discussed, potential changes, amendments, perfections brought forward through the policy and procedure subcommittee so that instead of saying, yes, we love everything, no, we don't, it's really more of, do we want to continue this discussion at a subcommittee level where members

and the public can both, you know, engage on this, provide feedback, say, we like this concept and would like to see more of it, or this concept seems have conflict with state law or other city policies that either would need more research or should be removed and here are some areas you haven't even considered that we would offer to you.

I think really, Commissioner Cerra, that's what I took away from that meeting and maybe I didn't phrase that correctly earlier. It's not an up or down we concur with your proposal. It's a, do we, the PCOC, agree that this direction is important and we agree to, in collaboration with you, sort of give you our feedback -- collect feedback -- from the public that's following us and offer that into that process.

COMMISSIONER ABIGAIL CERRA: Yes, Mr. Carl. That's totally accurate and I support that. And I'm really -- I'm sorry I didn't make your Roberts Rules so messy here but I would adopt that as my motion, just a vote of confidence in a way, you know, moving forward as a commission, like we think this is the right

direction and we would like to continue to work on it and keep it as an open discussion.

VICE-CHAIR MALAYSIA ABDI: Agreed. So do we need a roll call for that?

CLERK: If there's no further discussion, you can ask for a roll call.

VICE-CHAIR MALAYSIA ABDI: Okay. Clerk, will you please have roll call, please?

CLERK: Commissioner Cerra.

COMMISSIONER ABIGAIL CERRA: Aye.

CLERK: Commissioner Crockett.

COMMISSIONER JORDAN CROCKETT: Aye.

CLERK: Commissioner Jacobsen.

COMMISSIONER LYNNAIA JACOBSEN: I guess what I'm trying to understand, are we voting to table this or are we voting to move forward on this?

CITY CLERK CASEY CARL: The vote is to keep it at the subcommittee where's it at now for continued conversation. That's all.

COMMISSIONER LYNNAIA JACOBSEN: Okay. Aye.

CLERK: Commissioner McGuire.

COMMISSIONER KERRY MCGUIRE: Aye.

CLERK: Commissioner Pineau.

COMMISSIONER ROBERT PINEAU: Aye.
CLERK: Commissioner Sparks.
COMMISSIONER JORDAN SPARKS: Aye.
CLERK: Commissioner Sylvester.
COMMISSIONER JOHN SYLVESTER: Aye.
CLERK: Vice-chair Abdi.
VICE-CHAIR MALAYSIA ABDI: Aye.
CLERK: There are eight ayes.
VICE-CHAIR MALAYSIA ABDI: Okay. So I will now direct the clerk to receive and file this report. And I would like to now recognize Commissioner Pineau who will present the audit subcommittee report.
COMMISSIONER ROBERT PINEAU: Hi, everybody. I will just briefly give my report so that way, you're up to date with what we did in audit committee.
We had a few reports from staff, mainly a brief overview from Andrew Hawkins regarding the MPD 911 working group update and we made sure that that information is at least up on the table for discussion. We might be able to bring it up later, once more events and results unfold from that.
We also had our first conversation

around the coaching referral which came from this full commission back in 2020, and we decided we wanted to hear the exact presentation we heard tonight before we go any further with it. So we're glad that we tabled that for our next discussion.

We also had our first point of new business within this year regarding the no-knock warrants research and study. We asked staff for a feasibility report which I am happy to say was sent to subcommittee members just before this meeting which we will be looking at in our next subcommittee meeting. And that was about it, you know, apart from a report from one of our staff regarding the trans equity study methodology update which we are still working on, making sure that that's getting ready in a proper time.

That's about all I have for my report.

VICE-CHAIR MALAYSIA ABDI: Are there any questions from the commission or discussion on this report? Okay. So without any objection, I will direct the clerk to receive and file this report.

We will now take up case summaries that are postponed from April meeting under the

unfinished business. We will take questions and open the floor to discussion after each case summary is presented, and I would like to recognize Cassidy Gardner to present the first case summary. Is this time before Cassidy to speak -- is this time for the clerk to discuss? Okay.

CITY CLERK CASEY CARL: Madame Chair, I believe that perhaps Mr. Hawkins was going to address the selection process and any feedback that had come from the community to commissioners and that process.

VICE-CHAIR MALAYSIA ABDI: Okay. That's --

CITY CLERK CASEY CARL: I believe Mr. Hawkins is on the line.

ANDREW HAWKINS: Absolutely. Thank you, Casey. So for the selection of the -- this is back in April now (indiscernible) time escaping us. The cases are identified -- or sorry -- the synopses that were (indiscernible) for that meeting -- we have a new staff member doing this. We looked (indiscernible) that follows all these cases and one of the issues that occurred was (indiscernible) they hadn't

turned it on. So the cases that we pulled, there are a couple cases that were open.

Obviously, we're not able to discuss open cases. This is was something that we identified that's actually happened in the past with more seasoned staff. But because we identified it, we wanted to make sure that we didn't delay this process any further. We didn't want to not have case. I mean, obviously, we didn't last month, but we didn't want to not to do case summaries for that process.

So what we did was we actually went back. We pulled -- we compiled the entire list of cases (indiscernible) from the previous three months. All (indiscernible) 2021. And then we -- I believe that was (indiscernible) into the clerk as an option, just saying, hey, listen, here's the -- (indiscernible). You know, these cases can't go forward because we can't do a summary on a case that's not closed. And Mr. (indiscernible), if you want to jump in it's okay.

CITY CLERK CASEY CARL: Mr. Hawkins, I was going to just signal to the chair that I was hoping to add once we had completed your

comments.

ANDREW HAWKINS: All right. Well, I'm apologize to myself -- (indiscernible) myself. So anyways, the -- yes, so we sent those out because we wanted to make sure we had something, and, you know, there were three that were selected. (indiscernible) with the clerk's office can speak to, you know, that process, but the three that were selected initially, they're still open that we can't do.

Those are just on hold. They're not going away. They're not -- you know, they're not gone. They're not in a -- you know, there's just kind of in a purgatory, I guess, actually. That is a fair assessment. You know, we can absolutely present those once they're all closed. We can just add them on to whatever meeting we're doing as kind of, you know, just an addendum. So if we have a -- we'll have the three cases you have for that month plus what we'll have that case that was identified at previous meeting that we just weren't able to do.

And, you know, I say that because, again, it was a simple mistake. It's happened. It's understandable, but at the same time, we

want to make sure that we still access to those same cases so hopefully that kind of covered things from our end. (indiscernible) on the rest.

CITY CLERK CASEY CARL: Madame Chair, I know that Commissioner Cerra has asked to be recognized so I'll be very brief and to the point.

I've had conversations with Commission Chair Jackson about the selection process. As you all know, I am new to this. My office and I are both new to this process as are many of you. It has been my observation that this is frustrating process to have cases presented in a meeting, trying to come up with a process of selecting those cases, and then bringing them forward to the next month. There's not a lot of coherence in terms of which cases are selected or whether those cases are, in fact, illustrative of policies that are of interest to this body, if there's a thematic, you know, through-line to those selections.

And so Chair Jackson had indicated she also was frustrated, and we've begun the process of having discussions about how we might bring

forward to this body making improvements to that process. So I'm sorry she couldn't be here tonight. We did have a fairly lengthy conversation, she and I, to start that process and have already set the ball rolling to have a conversation to engage the OPCR staff about options that we think could make this a better process which would align with perhaps policies identified by this body so if there were spheres of policy in which this body is specifically interested, directing the staff to bring forward case summaries that align with those, that would show, right, across the longitudinal basis that there is a practice, there is a pattern, there is something here, not just some random pick three and they may or may not relate to anything and who knows what they are.

And so I don't mean to disparage the process as it has existed in the past, but Mr. (indiscernible) mentioned tonight, if that process doesn't work for this body, this body has within its power the ability to change that. I certainly believe that it needs to be changed. I know I can speak for the OPCR staff. They are open to change as well.

We, in fact, have had several discussions already. I've had conversations with Chair Jackson, all of which is to simply say our goal was simply because it is in the group's bylaws that we have to have the process as it is now to go ahead and continue May, June, and July, and then through June and July bring forward proposals for change so that there's a smooth more seamless hand-off from what has been so we continue to fulfill our bylaws' requirement -- bring forward bylaws proposed changes that align with a new process.

I know that sounds overly complex and I don't mean to belabor the point, but I think we all can occur the process as it exists today does not work and it's frustrating for everyone. So I just wanted to share that, that we do see the need for improvement and we are working on that and our hope was to sort of create a menu of options that the group could pick from and that would inform the new process that we would bring forward, change the bylaws, and hopefully transition to that by summer.

So I'll stop talking and just appreciate the ability to put that on the record.

Thank you.

VICE-CHAIR MALAYSIA ABDI: Commissioner Cerra.

CITY CLERK CASEY CARL: Commissioner, you're microphone's on.

COMMISSIONER ABIGAIL CERRA: Thank you. Thank you, Mr. Carl. I was actually going to say quite a bit of that, actually, and just say this is kind of a frustrating process, and you made a good point. The way we're doing it right now, we can't do what is in our operating rules which is to identify patterns or practices because we don't even know the year that the incident took place, much less, you know, what precinct or what the demographics were, you know. We just simply don't -- we just -- we don't have enough information to determine a pattern.

And since it's in our operating rules and it's not actually required under the ordinance, we can suspend this process. We can vote to suspend it for a period of time. It sounds like perhaps three months would be a good period while the clerk's office and the chair work behind the scenes or for whatever.

For context for the other

Commissioners, we did vote to suspend this process last summer. I can't remember if it was June or July -- maybe July -- because we just had so much going on as a commission at that time and we just felt that it wasn't a good use of our time. It takes up a lot of time, and it wasn't really moving the needle in any way.

I was going to make a motion, but I see a hand from Commissioner Pineau. Yeah.

COMMISSIONER ROBERT PINEAU: I wanted to just bring up one final thing in the form of a question to city attorney. Joel, do you know whether or not the current process that we're going through with picking these is, in fact, a violation of open meeting laws. It was raised in public comments so I just wanted to provide an opportunity for you to advise us on that.

JOEL FUSSY: Thank you, Commissioner and Madame Chair. I know that there is a lot of talk and there has been talk about possibly changing the process. Obviously, that's probably a good thing for a number of policy reasons and also process reasons.

I think the specific comment had to do with a practice that would involve the commission

selecting the cases to hear kind of before the meeting or offline and then hearing those online. I'm not exactly even sure where in the process we are with these missed months or if that's happening now.

That being said, the way I view that -- and that's -- maybe that's an idea that would have some good advantages and it could be looked at during this pause if there is a pause or during the next few months.

I do think that that's essentially an agenda setting function and that would not necessarily run afoul of the open meeting law. It's not like -- I think the open meeting law is designed to cover your formal authorized functions, for instance, if you were selecting your chair and vice-chair or selecting and authorizing a research and study process. But that being said, I mean, those are all valid considerations, you know, in terms of data privacy and also open meeting laws to look at when kind of devising what might you want as a commission to have this process look like going forward.

So I can't -- I don't know where we are

in the process, exactly what's before you tonight and how those came about. I can say that I think it's essentially an agenda setting function at this point and I don't think there are any violations that are going forward, but I do support any discussions to kind of come upon a better process.

COMMISSIONER ROBERT PINEAU: Thank you so much.

VICE-CHAIR MALAYSIA ABDI: Okay. (indiscernible)

COMMISSIONER ABIGAIL CERRA: I make a motion to suspend this process for a period of three months, and we can revisit in three months.

CITY CLERK CASEY CARL: Madame Chair, if I could just speak to Commissioner Cerra's motion. I would say it think that's a good timeline for the staff. As I mentioned, I, myself have had at least two conversations with Chair Jackson. I've had a conversation with Interim Director Jaafar. I've had -- which also included Mr. Hawkins, Mr. Fussy, and so I do believe that that will give us adequate time to work on options that we would bring forward to the body and give us a chance to -- what I'll

call as realign the operating rules to whatever the final selection is so that we still are in accord with those operating rules going forward.

I know that it's been frustrating and I apologize on behalf of staff for all the Commissioners. Certainly, it's been frustrating for me as well. It's a process that may have worked at a point in time that this body existed, but for the current iteration of the body it does not.

And so I think we all are in agreement that we need a process that works and works consistently, advances the goals of this body, allows us to identify those practices and patterns within policy, and that would also be transparent to the public and known in advance, not as Mr. Fussy had just indicated, done sort of offline in an agenda setting with just the chair and the vice-chair and then brought forward to the group without a clear process.

So I think we all are in agreement with sort of that itemized list of what needs to be done. That sounds like a reasonable timeframe to get it done, and I appreciate your support.

We do have Ms. Gardner here tonight to

make the presentation, the case summaries that are on -- listed on the agenda if you wish to have them. Otherwise, I leave that to your discretion whether we go through that or punt.

COMMISSIONER JACOBSEN: I second Commissioner Cerra's motion.

CLERK: Chair, do you -- would you like me to call the roll on that or --

VICE-CHAIR MALAYSIA ABDI: Yes, please. Thank you.

CLERK: Just before I do, can I clarify, we're talking three months so that would be August -- to the August 10th meeting?

VICE-CHAIR MALAYSIA ABDI: Yes, I believe so.

CLERK: Or to the September 14th?

VICE-CHAIR MALAYSIA ABDI: August.

CITY CLERK CASEY CARL: I think August makes the sense, Lisa, if Commissioner Cerra agrees.

COMMISSIONER ABIGAIL CERRA: I think August.

CLERK: All right. Commissioner Cerra.

COMMISSIONER ABIGAIL CERRA: Aye.

CLERK: Commissioner Crockett.

COMMISSIONER JOHN CROCKETT: Aye.
CLERK: Commissioner Jacobsen.
COMMISSIONER LYNNAIA JACOBSEN: Aye
CLERK: Commissioner McGuire.
COMMISSIONER KERRY MCGUIRE: Aye.
CLERK: Commissioner Pineau.
COMMISSIONER ROBERT PINEAU: Aye.
CLERK: Commissioner Sparks.
COMMISSIONER JORDAN SPARKS: Aye.
CLERK: Commissioner Sylvester.
COMMISSIONER JOHN SYLVESTER: Ayes.
CLERK: Vice-chair Abdi.
VICE-CHAIR MALAYSIA ABDI: Aye.
CLERK: There are eight ayes.
VICE-CHAIR MALAYSIA ABDI: And are we going to want Ms. Gardner to make the presentation of the case synopses? I'm seeing some head nos. Okay.
COMMISSIONER ROBERT PINEAU: I do -- Madame Chair, just on behalf of the body, want to offer our thanks to Ms. Gardner for being with us tonight. She does work for the civil rights department, but specifically in the OPCR and had agreed to take on this challenge, given some recent changes within the staffing with the

interim designation of Director Jaafar.

And so thank you to her for joining us tonight and sitting this long time with us and being prepared just in case. And also, I don't know, Mr. Hawkins, if you're were going to make this comment but before I turn over to the chair and hopefully be quiet, I wanted to share with everyone one of things that Interim Director Jaafar did do is to designate Mr. Hawkins the chief of staff in the department as the principal liaison to this body and to the Minneapolis Commission of Civil Rights.

And so it's great to have him in that expanded capacity to provide direct support to the PCOP. So he'll be a regular member of our meetings going forward and working directly with all of the Commissioners on their work. So thank you to Mr. Hawkins for taking on that expanded responsibility during this interim period.

ANDREW HAWKINS: Absolutely. Happy to do it (indiscernible) so I'm looking forward to working with all of you. Just -- I mean, I know I've worked with this group a lot (indiscernible) expanded into MCCR, the Minneapolis Commission of Civil Rights. (indiscernible) looking forward.

I don't think it -- it doesn't feel a lot different to me (indiscernible) to begin with. But I'm looking forward to whatever the future holds so.

VICE-CHAIR MALAYSIA ABDI: Okay. So it looks like that might conclude our agenda for this meeting. Commissioner Cerra, I saw something in the chat. Did you need -- did you have a comment?

COMMISSIONER ABIGAIL CERRA: I was just wondering if Mr. Hawkins' new role included support of the subcommittees or if I should speak to someone else if I need support of (indiscernible).

ANDREW HAWKINS: (indiscernible) in support of subcommittees, I defer to (indiscernible). So everything -- I mean, all of our communications -- I really don't think (indiscernible) a lot of changes on (indiscernible) comment (indiscernible). I defer to him. (indiscernible) administrative work from the subcommittees.

VICE-CHAIR MALAYSIA ABDI: Okay. Is it time for adjournment? I don't -- I hate to cut people off. I just -- I don't know. Okay.

Well, we have concluded all items on our agenda for this meeting. I will see everyone back here for our June 8th regular meeting. Seeing no further business, without objections, I declare this meeting adjourned. And thank you for everyone being patient with me. This is my first meeting chairing the whole thing so I'm nervous.

CITY CLERK CASEY CARL: You did a very good job.

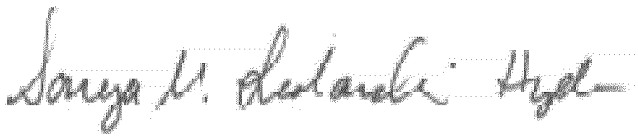
COMMISSIONER JOHN SYLVESTER: Great job.

VICE-CHAIR MALAYSIA ABDI: Thank you.

CITY CLERK CASEY CARL: Thanks for the meeting, everybody.

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the foregoing transcript is a true and accurate record of the proceedings.



Veritext Legal Solutions
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Date: September 17, 2021

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EXHIBIT

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Investigation of the City of Minneapolis and the Minneapolis Police Department

United States Department of Justice
Civil Rights Division
and
United States Attorney's Office
District of Minnesota
Civil Division

June 16, 2023

TABLE OF CONTENTS

EXECUTIVE SUMMARY

On April 21, 2021, the Department of Justice opened a pattern or practice investigation of the Minneapolis Police Department (MPD) and the City of Minneapolis. By then, Derek Chauvin had been convicted in state court for the tragic murder of George Floyd in 2020. In the years before, shootings by other MPD officers had generated public outcry, culminating in weeks of civil unrest after George Floyd was killed.

Our federal investigation focused on the police department as a whole, not the acts of any one officer. To be sure, many MPD officers do their difficult work with professionalism, courage, and respect. Nevertheless, our investigation found that the systemic problems in MPD made what happened to George Floyd possible.

FINDINGS

The Department of Justice has reasonable cause to believe that the City of Minneapolis and the Minneapolis Police Department engage in a pattern or practice of conduct that deprives people of their rights under the Constitution and federal law:

- **MPD uses excessive force, including unjustified deadly force and other types of force.**
- **MPD unlawfully discriminates against Black and Native American people in its enforcement activities.**
- **MPD violates the rights of people engaged in protected speech.**
- **MPD and the City discriminate against people with behavioral health disabilities when responding to calls for assistance.**

We also found persistent deficiencies in MPD's accountability systems, training, supervision, and officer wellness programs, which contribute to the violations of the Constitution and federal law.

The frustrations with MPD that boiled over during the 2020 protests were not new. "[T]hese systemic issues didn't just occur on May 25, 2020," a city leader told us. "There were instances . . . being reported by this community long before that."

For years, MPD used dangerous techniques and weapons against people who committed at most a petty offense and sometimes no offense at all. MPD used force to punish people who made officers angry or criticized the police. MPD patrolled

neighborhoods differently based on their racial composition and discriminated based on race when searching, handcuffing, or using force against people during stops. The City sent MPD officers to behavioral health-related 911 calls, even when a law enforcement response was not appropriate or necessary, sometimes with tragic results. These actions put MPD officers and the Minneapolis community at risk.

We reached these findings based on our review of thousands of documents, incident files, body-worn camera videos, and the City and MPD's data. Our findings are also based on ride-alongs and conversations with MPD officers, City employees, mental health providers, and community members.

We acknowledge the considerable daily challenges that come with being an MPD officer. Police officers must often make split-second decisions and risk their lives to keep their communities safe. MPD officers work hard to provide vital services, and many spoke with us about their deep connection to the City and their desire to see MPD do better. Still, since the spring of 2020, hundreds of MPD officers have left the force, and the morale of the remaining officers is low. Policing, by its nature, can take a toll on the psychological and emotional health of officers, and the challenges of the last few years have only exacerbated that toll for some MPD officers.

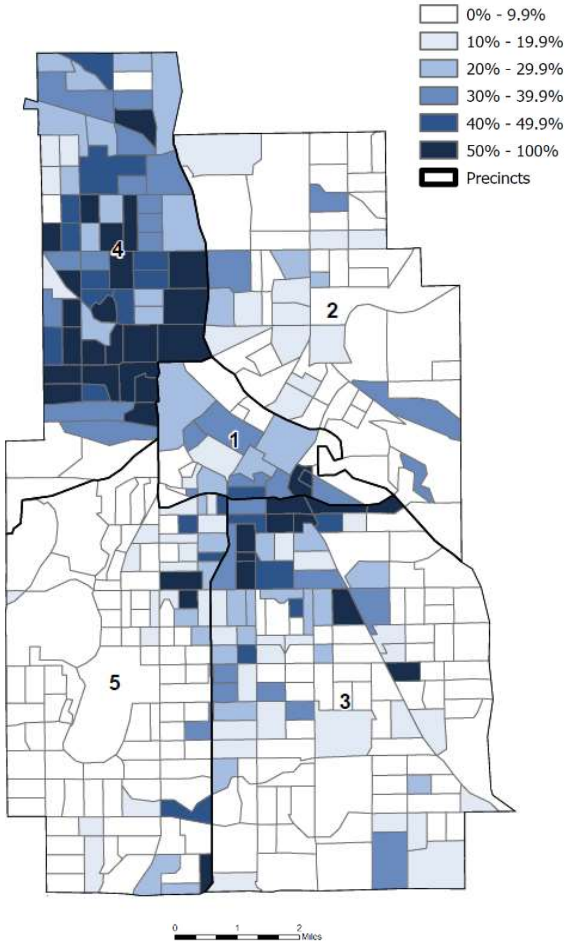
To their credit, the City and MPD have pressed ahead with reform. MPD policy now prohibits neck restraints, and officers cannot use certain crowd control weapons without approval of the MPD chief. Following the 2022 death of Amir Locke during a "no-knock" warrant execution, MPD banned their use. The City has launched a promising behavioral health response program so that trained mental health professionals will respond to calls for service that do not need a police response.

The Department of Justice expects to work collaboratively with the City and MPD on the reforms necessary to remedy the unlawful conduct outlined in this report. We especially appreciate the cooperation and candor of City and MPD officials during our investigation. The leaders of the City and MPD know they have a problem. Mayor Jacob Frey told us, "We need help changing and reforming this department," and the reforms "need to permeate the department itself." Despite the initial steps the City and MPD have taken toward reform, Mayor Frey was realistic about the challenges ahead. "Clearly," he said, "we still have a long way to go."

BACKGROUND

Minneapolis is a diverse, prosperous city marked by stark racial inequality. The largest city in Minnesota, Minneapolis has a population of approximately 425,000 people.[1] Minneapolis' population is 63% non-Hispanic white, 18% Black, 10% Hispanic, 6% Asian, and 1.3% Native American. Minnesota is the state with the most people who report Somali ancestry and Hmong ancestry, many of whom settled in Minneapolis.[2]

MPD Precincts and Black Population in Minneapolis



This map shows MPD's five police precincts and the percentage of the population within each census block group that is Black.

Minneapolis is part of a regional economic hub, home to multiple Fortune 500 companies and over two dozen colleges and universities. Minneapolis has a higher-than-average proportion of residents with a four-year college education, with over 50% of residents holding a bachelor's degree or higher (compared to roughly 33% nationally).

Not everyone in Minneapolis shares in its prosperity. The metropolitan area that includes Minneapolis and neighboring St. Paul—known as the Twin Cities—has some of the nation's starkest racial disparities on economic measures, including income, homeownership, poverty, unemployment, and educational attainment. By nearly all of these measures, the typical white family in the Twin Cities is doing better than the national average for white families, and the typical Black family in the Twin Cities is doing worse than the national average for Black families. The median Black

[1] *Quick Facts: Minneapolis, Minnesota*, U.S. Census Bureau, U.S. Dep't of Commerce, https://www.census.gov/quickfacts/minneapoliscityminnesota [https://perma.cc/9Y7V-RJ7H].
[2] *Immigration & Language*, Minnesota State Demographic Center, Department of Administration, State of Minnesota, mn.gov, https://mn.gov/admin/demography/data-by-topic/immigration-language/ [https://perma.cc/MM5R-ALJJ].

family in the Twin Cities earns just 44% as much as the median white family, and the poverty rate among Black households is nearly five times higher than the rate among white households. Of the United States' 100 largest metropolitan areas, only one has a larger gap between Black and white earnings.

Minneapolis also has one of the nation's largest gaps between Black and white rates of homeownership. While the City's white families enjoy one of the nation's highest rates of homeownership (76%), only roughly one quarter of Black families in Minneapolis own their home, which is one of the lowest Black homeownership rates in United States cities.

Some researchers have traced Minneapolis' homeownership gap and other economic disparities back to the restrictive racial covenants that barred non-white people from living in many parts of Minneapolis in the first half of the 20th century. Beginning in 1910, local and federal public officials and mortgage lenders embraced racial covenants, and lenders engaged in redlining by routinely denying loans for properties in majority Black or mixed-race neighborhoods. The racially restrictive covenants, which the Supreme Court sanctioned in 1926 but later ruled unenforceable in 1948,[3] funneled the City's growing Black population into a few small areas and laid the groundwork for enduring patterns of residential segregation.

A. Minneapolis Government and MPD

An elected mayor and 13-member city council govern Minneapolis. Mayor Jacob Frey was elected in 2017 and re-elected in 2021. In November of 2021, voters approved a city charter amendment that created a "strong mayor" model of governance, designating the mayor as the City's chief executive.

MPD is the largest police force in Minnesota. It has an authorized strength of 731 officers. Nine percent of MPD officers are Black. MPD is led by the Chief of Police, an assistant chief, three deputy chiefs, and five precinct inspectors who command each precinct. Its five precincts operate with significant latitude to employ neighborhood-specific crime prevention and community engagement practices, and inspectors manage the day-to-day operations of their precincts as they see fit.

From 2017 until 2022, Medaria Arradondo served as MPD's chief—the first Black chief in MPD's history. When Chief Arradondo retired, Mayor Frey selected Deputy Chief Amelia Huffman to serve as MPD's interim chief. In September 2022, Mayor Frey nominated Brian O'Hara to be MPD's next chief. The Minneapolis City Council

[3] *See Corrigan v. Buckley*, 271 U.S. 323 (1926); *Shelley v. Kraemer*, 331 U.S. 1, 20 (1948).

confirmed his appointment in November 2022. Prior to joining MPD, Chief O'Hara served as the Deputy Mayor, Public Safety Director, and Deputy Chief of Police in Newark, New Jersey. Chief O'Hara's selection marks the first time in 16 years that MPD has selected a chief from outside the department.

In 2021, in addition to adopting the "strong mayor" model of governance, Minneapolis voters approved a charter amendment to create the position of Community Safety Commissioner—a new role that oversees the City's police and fire departments, 911 call center, emergency management, and violence prevention efforts. Mayor Frey selected Dr. Cedric Alexander for the position, who previously served as the Director of Public Safety and Chief of Police in DeKalb County, Georgia, and as Chief of Police and Deputy Mayor in Rochester, New York. Dr. Alexander officially began his tenure as Commissioner in August 2022 and reports to the mayor.

B. Recent Events

On May 25, 2020, MPD officer Derek Chauvin murdered George Floyd in broad daylight and on camera. Three other MPD officers failed to save Mr. Floyd. Widespread protest followed in Minneapolis, across the country, and throughout the world.

George Floyd was one of several people whose death at the hands of MPD officers garnered heightened public attention in recent years. For example, in 2015, MPD officers shot and killed Jamar Clark, a 24-year-old Black man, triggering 18 days of protests, including an occupation of MPD's Fourth Precinct station. In 2017, an MPD officer shot and killed Justine Ruszczyk, a 40-year-old white woman, while responding to Ruszczyk's 911 call. In 2018, MPD officers fatally shot Thurman Blevins, a 31-year-old Black man, following a foot chase. In 2019, MPD officers shot and killed Chiasher Vue, a 52-year-old Asian man, during a standoff at his home. In 2022, an MPD officer shot and killed Amir Locke, a 22-year-old Black man, during a no-knock raid on an apartment. These and other deaths have focused the community's attention on MPD.

MPD has a strained relationship with the community it serves. One officer told us that morale "is at an all-time low." Since 2020, hundreds of officers have left MPD, up and down the ranks, young and old, patrol officers and supervisors. As of May 2023, there were 585 sworn MPD officers, down from 892 in 2018. Many others are on extended medical leave.[4] Despite efforts to step up recruiting and hiring, MPD has not been able to replenish its ranks.

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[4] *Policing & Community Safety Initiatives*, minneapolis.org, https://www.minneapolis.org/safety-updates/future-of-public-safety [https://perma.cc/S5RR-E7JY] (last updated May 15, 2023).

The four officers involved in Mr. Floyd's murder faced state and federal criminal charges. On April 20, 2021, Mr. Chauvin was convicted of murder and manslaughter in state court. The United States criminally charged all four officers for violating George Floyd's constitutional rights. On December 15, 2021, Mr. Chauvin pleaded guilty to federal criminal civil rights violations, both for the murder of Mr. Floyd and for holding a 14-year-old teen by the throat, beating him with a flashlight, then pressing his knee on the teen's neck and back for over 15 minutes in 2017. A federal jury found the three other MPD officers involved in Mr. Floyd's death, Tou Thao, J. Alexander Kueng, and Thomas Lane, guilty of federal criminal civil rights offenses. Mr. Thao and Mr. Kueng were convicted of willfully failing to intervene to stop Mr. Chauvin from killing Mr. Floyd. And Mr. Thao, Mr. Kueng, and Mr. Lane were convicted of failing to render medical aid. On May 1, 2023, Mr. Thao was also convicted of state charges of aiding and abetting manslaughter; Mr. Keung and Mr. Lane had previously pled guilty to those charges.

Eight days after Mr. Floyd's murder, the Minnesota Department of Human Rights (MDHR) filed a state civil rights charge against MPD to determine if MPD had engaged in systemic discriminatory practices towards people of color. On April 27, 2022, MDHR released findings concluding that MPD had engaged in a pattern or practice of discrimination, in violation of the Minnesota Human Rights Act. On March 31, 2023, MDHR and the City of Minneapolis filed a proposed Settlement Agreement and Order to address the findings, which is under review by the state court.[5]

[5] *See* Proposed Settlement Agreement and Order, *State of Minnesota v. Minneapolis Police Department*, No. 27-CV-23-4177, Index #6 (Dist. Ct. Minn., 4th Judicial Dist., Mar. 31, 2023), *available at* https://publicaccess.courts.state.mn.us/CaseSearch (search by case number).

INVESTIGATION

The Department of Justice opened our federal investigation of MPD and the City on April 21, 2021. Unlike criminal investigations that may focus on an individual officer or a single incident, the goal of our civil investigation was to determine whether MPD and the City engage in a pattern or practice of violations that are repeated, routine, or of a generalized nature. Where we conclude we have reasonable cause to believe that MPD or the City engages in a prohibited pattern or practice, we are authorized to bring a lawsuit seeking court-ordered changes.[6]

During our investigation, we heard from over two thousand community members and local organizations, including many family members of people killed by MPD officers. We also interviewed dozens of MPD officers, sergeants, lieutenants, field training officers, training academy leaders, union leaders, all five precinct inspectors, and many members of MPD's command staff, including several current and former MPD chiefs. We also spoke with numerous current and former City employees, including the mayor, the Community Safety Commissioner, and former Minneapolis City Council members, as well as members of the Police Civilian Oversight Commission. We talked with local leaders and advocates, faith leaders, and researchers, and we participated in live and virtual community meetings and town halls. We also participated in over fifty ride-alongs with MPD officers, covering every precinct and every shift so we could directly observe the work officers do and the challenges they face. Alongside mental health clinicians, we also participated in ride-alongs with behavioral crisis responders.

We also reviewed information we obtained from the City and from outside sources. We reviewed hundreds of incident files, including viewing body-worn camera footage when available, and reviewed thousands of documents, including policies and training materials, police reports, and internal affairs files. We conducted numerous statistical analyses of the data the City and MPD collected between 2016 and 2022 on calls for service, stops, uses of force, and other officer activities. Based on this evidence, we identified patterns of conduct that violate the law, as well as practices that fuel those violations. This report both identifies those violations and offers examples to illustrate how they operate in practice.

Our investigative team consists of career civil staff from the Civil Rights Division of the Department of Justice and the U.S. Attorney's Office for the District of Minnesota. More

[6] We conducted this civil investigation pursuant to 34 U.S.C. § 12601, which prohibits law enforcement agencies from engaging in a "pattern or practice" of conduct that deprives people of rights protected by the U.S. Constitution or federal laws. The investigation was also conducted pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq*.

than a dozen experts assisted us, including law enforcement experts, mental health clinicians, and statisticians.

We thank the City, MPD officials, the Police Officers Federation of Minneapolis, and the officers who have cooperated with this investigation and provided us with insights into the operation of MPD. We are also grateful to the many members of the Minneapolis community who met with us during this investigation to share their experiences.

FINDINGS

We have reasonable cause to believe that MPD and the City engage in a pattern or practice of conduct that violates the Constitution and federal law. First, MPD uses excessive force, including unjustified deadly force and excessive less-lethal force. Second, MPD unlawfully discriminates against Black and Native American people when enforcing the law. Third, MPD violates individuals' First Amendment rights. Finally, MPD and the City discriminate when responding to people with behavioral health issues.

A. MPD Uses Excessive Force in Violation of the Fourth Amendment

The use of excessive force by a law enforcement officer violates the Fourth Amendment. The constitutionality of an officer's use of force is assessed under an objective reasonableness standard: "[T]he question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation."[7] To determine objective reasonableness, one must pay "careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."[8]

The most significant use of force is the use of deadly force because it can result in the taking of human life. "The intrusiveness of a seizure by means of deadly force is unmatched," as the use of deadly force frustrates not only the individual's fundamental interest in their own life, but also the social interests in ensuring a judicial determination of guilt and punishment.[9] Deadly force is permissible only when an officer has probable cause to believe that a suspect poses an immediate threat of serious physical harm to the officer or another person.[10]

We evaluated MPD's use of force practices with the understanding that officers often face challenging and quickly evolving circumstances that threaten their safety or the safety of others.[11] Encounters may therefore require officers to use force to protect themselves and others from an immediate threat. These principles guided our review; our conclusions are not based on hindsight, but rather the contemporaneous perspective of a reasonable officer on the scene.

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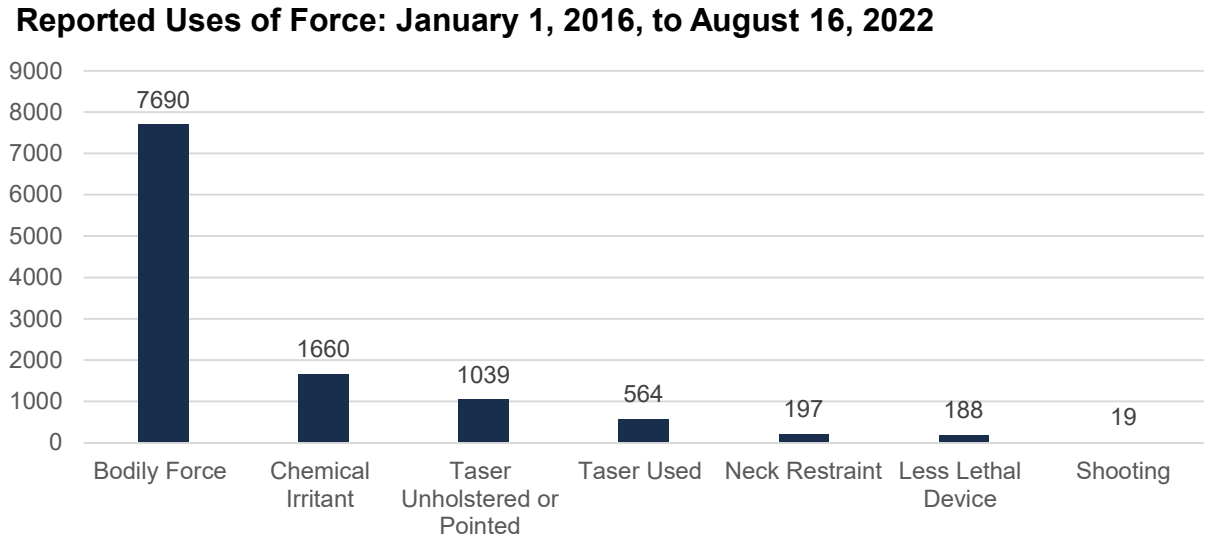
[7] *Graham v. Connor*, 490 U.S. 386, 397 (1989).
[8] *Id*.
[9] *Tennessee v. Garner*, 471 U.S. 1, 9 (1985).
[10] *Id*.
[11] *See Aipperspach v. McInerney*, 766 F.3d 803, 806 (8th Cir. 2014).

The following chart shows MPD's reported uses of force from January 1, 2016, through August 16, 2022.[12]



Our review of the data depicted above showed that roughly three quarters of MPD's reported uses of force did not involve an associated violent offense or a weapons offense.

To evaluate MPD's use of deadly force, we reviewed incident files for all MPD police shootings and one in-custody death from January 1, 2016, to August 16, 2022. For less-lethal force, we reviewed hundreds of incidents covering January 1, 2016, to September 30, 2021. Our evaluation of a stratified random sample of MPD's reported less-lethal force incidents included incidents from every force control option available to MPD officers, except for incidents where the only force reported was handcuffing or escort holds. We reviewed hundreds of body-worn camera videos, as well as related police reports, incident reports, 911 call center information, and supervisory reviews.

Our investigation showed that MPD officers routinely use excessive force, often when no force is necessary. We found that MPD officers often use unreasonable force

[12] This chart summarizes MPD's reported data on encounters with individuals involving a specific type of force. We count each encounter where MPD used a specific type of force against a person (whether MPD used that type of force once or multiple times against that person during that encounter). We count this way because MPD's data did not reliably count the number of applications of a specific type of force during an encounter. In this chart, if MPD used force against multiple people during a single encounter, each person is counted separately. If MPD used force against the same person across multiple encounters, each encounter where force was used is counted separately. Finally, if MPD used multiple kinds of force against a single person during an encounter, like a taser and a neck restraint, that encounter would appear in each relevant column.

(including deadly force) to obtain immediate compliance with orders, often forgoing meaningful de-escalation tactics and instead using force to subdue people. MPD's pattern or practice of using excessive force violates the law.

1. MPD Uses Unreasonable Deadly Force

"Deadly force" is any type of force that risks serious injury or death. Shooting a firearm is deadly force, and we found that MPD officers discharged firearms in situations where there was no immediate threat.

Neck restraints are deadly force. Compressing the side or front of a person's neck in a way that inhibits air or blood flow is inherently dangerous and poses a significant risk that the person could be seriously injured or die.[13] Medical experts have concluded that "there is no amount of training or method of application of neck restraints that can mitigate the risk of death or permanent profound neurologic damage with this maneuver."[14] Until 2020, MPD did not consider neck restraints to be deadly force, instead classifying them as "less-lethal" force. MPD officers frequently used neck restraints in situations where deadly force was not justified.

a. MPD Officers Discharge Firearms When There Is No Immediate Threat

We reviewed all of the 19 police shootings that occurred from January 1, 2016, to August 16, 2022. Although this number is relatively small, a significant portion of them were unconstitutional uses of deadly force. At times, officers shot at people without first determining whether there was an immediate threat of harm to the officers or others. Federal law requires officers to warn when feasible that they are about to use deadly force,[15] but MPD officers routinely fail to provide such warnings. MPD officers also use deadly force against people who are a threat only to themselves. Despite these unreasonable uses of deadly force, MPD has failed to respond with effective, systemic

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[13] *National Consensus Policy and Discussion Paper on Use of Force*,15 (July 2020), https://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf [https://perma.cc/V7XE-BU56]; *see also AAN Position Statement on the Use of Neck Restraints in Law Enforcement*, American Academy of Neurology (June 9, 2021), https://www.aan.com/advocacy/use-of-neck-restraints-position-statement [https://perma.cc/7R48-3D7L] ("Because of the inherently dangerous nature of these techniques, the AAN strongly encourages federal, state, and local law enforcement and policymakers in all jurisdictions to classify neck restraints, at a minimum, as a form of deadly force.").

[14] *See AAN Position Statement on the Use of Neck Restraints in Law Enforcement*, *supra* note 13.

[15] *Est. of Morgan v. Cook*, 686 F.3d 494, 497 (8th Cir. 2012) ("[W]here it is feasible, a police officer should give a warning that deadly force is going to be used.").

reforms (such as revised policies and additional training) designed to prevent unlawful shootings.

MPD officers discharge firearms at people without assessing whether the person presents any threat, let alone a threat that would justify deadly force. For example, in 2017, an MPD officer shot and killed an unarmed white woman who reportedly "spooked" him when she approached his squad car. The woman had called 911 to report a possible sexual assault in a nearby alley, and two officers responded. When the woman walked up to their squad car, one officer fired his gun past his partner through the open window, striking the woman. The officer was tried and convicted of third-degree murder and manslaughter (although a court overturned the murder conviction), and the City settled with her family for $20 million.

We reviewed incidents in which MPD officers fired guns without regard to people in their line of fire. In one example, an off-duty officer fired his gun at a car containing six people within three seconds of getting out of his squad car. The off-duty officer had responded to a "shots fired" call. Meanwhile, other officers had already responded and instructed a car full of passengers to leave the area by reversing down a one-way street. The off-duty officer turned onto the same street, and the car backed into his squad car. The officer got out of his squad car and, almost immediately, fired a round at the vehicle that hit near the left rear window. Body-worn camera video shows the officer asking the driver one question: "You didn't see me coming here with my lights and stuff?" The City settled with the six occupants for $150,000. While the officer was acquitted of criminal charges (which require a higher standard of proof than civil violations), using deadly force without assessing whether a threat exists is unreasonable.

We also reviewed a case where officers shot a man who was a threat only to himself. The man was a suspect in a shooting. Officers took him into custody, brought him to an interview room, and left him in the interview room unrestrained. When an officer returned, the man was stabbing himself in the neck with a knife in the back corner of the room. The officer shut the door and talked to the man through the door, ordering him to put the knife down. When officers opened the door, the man was still in the back corner of the room, with blood dripping from his neck. One officer immediately fired his taser, but may have missed. The man raised his hands, still holding the knife, and took a few slow steps towards the door, his path blocked by two office chairs. Though the man had a knife in his hand, he did not point it at the officers or wield it in a threatening manner. Rather than closing the door again, two officers fired four shots at the man, striking him

twice. Shooting a man who is hurting himself and has not threatened anyone else is unreasonable.[16]

Another example of MPD officers using firearms unreasonably involves the dangerous practice of shooting at a moving car. Two officers chased a speeding car. When the car stopped, the officers approached it from opposite sides with their guns drawn, ordering the driver to put the car in park. Instead, the driver revved the engine and drove forward. Instead of stepping out of the path of the car—which he had time and space to do—the officer fired four shots while his partner was in the line of fire, striking the back and side of the fleeing car. The officer's partner said he did not shoot because of the crossfire danger. Firing at a moving car is inherently dangerous and almost always counterproductive. In addition to the risk of killing the occupants, shooting at a vehicle is unlikely to disable it and instead can result in a runaway vehicle that endangers officers and bystanders. The officer's use of deadly force was reckless and unreasonable.

In another case, an officer created unnecessary danger when he shot two dogs in the back yard of a home in a residential neighborhood. At least two people were inside the home at the time, and the home was flanked on both sides by neighboring homes and other structures. The dogs did not present an imminent threat.[17] Discharging a firearm in the absence of a threat violates the Fourth Amendment. Although no person was injured or killed in this incident, any unnecessary discharge of a firearm in a residential area poses a grave risk to bystanders.

b. MPD Used Neck Restraints, Often Without Warning, On People Suspected of Committing Low-Level Offenses and People Who Posed No Threat

Prior to June 9, 2020, MPD defined neck restraints as "compressing one or both sides of a person's neck with an arm or leg, without applying direct pressure to the trachea or airway (front of the neck)." MPD policy further divided neck restraints into two categories, depending on the officer's intended outcome. "Conscious neck restraints" were those in which an officer did not intend to render the person unconscious; the officer would apply "light to moderate pressure." "Unconscious neck restraints" were those in which the officer intended to render the person unconscious; the officer would

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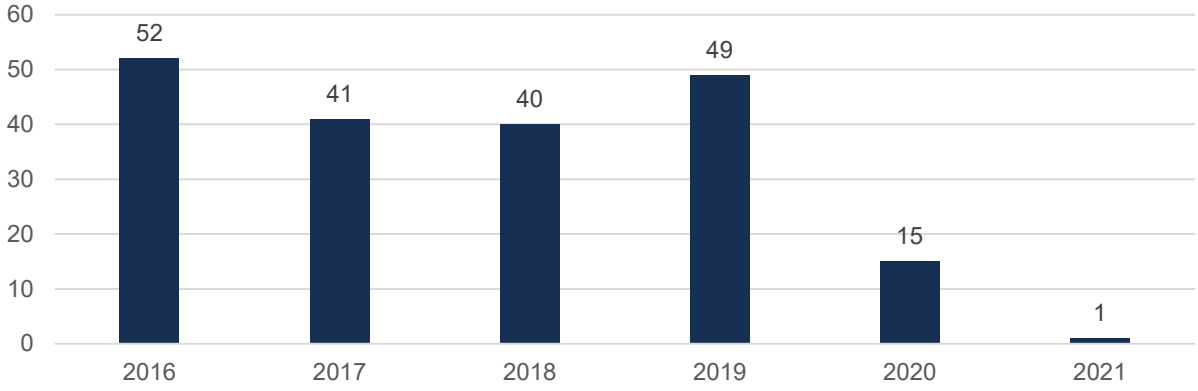
[16] *See Cole v. Hutchins*, 959 F.3d 1127, 1134 (8th Cir. 2020) (quoting *Partridge v. City of Benton*, 929 F.3d 562, 566 (8th Cir. 2019)) (concluding that a jury could find that an officer's use of deadly force was not justified because the decedent was not wielding his gun in a threatening manner).

[17] *See LeMay v. Mays,* 18 F.4th 283, 287 (8th Cir. 2021) (quoting *Brown v. Muhlenberg Twp.*, 269 F.3d 205, 210 (3d Cir. 2001)) (applying the unreasonable seizure standard under the Fourth Amendment to a case where an officer shot a dog).

apply “adequate pressure.”[18] We reviewed numerous incidents involving both kinds, including many incidents with both a conscious and an unconscious neck restraint. We also reviewed the force that resulted in George Floyd’s death.

MPD officers often used neck restraints in situations that did not end in an arrest. MPD officers used neck restraints during at least 198 encounters from January 1, 2016, to August 16, 2022.[19] Officers did not make an arrest in 44 of those encounters.

Number of Encounters Involving Neck Restraints by Year: 2016–2021



We reviewed dozens of incidents where MPD officers used neck restraints. Most of these restraints were unreasonable. We found that officers misused this deadly tactic in a variety of ways. De-escalation, if it occurred at all, was poor; officers shouted commands, gave multiple conflicting orders, demanded immediate compliance, or threatened force. Officers made tactical decisions that endangered community members and officers alike. Officers often used neck restraints on people who were accused of low-level offenses, were passively resisting arrest, or had merely angered the officer. And, most troublingly, officers used neck restraints on people who were not a threat to the officer or anyone else.

MPD officers frequently used neck restraints without warning, in one case sneaking up behind an unarmed Latino man and choking him until he blacked out. The officer was responding to a call about the man kicking his car and saying, “I’m going to kill somebody.” The man initially spoke calmly to the officer, but the man became agitated, yelling that he was “the creator,” and threatening to “fuck [the officer] up.” The officer radioed for backup and pointed his taser at the man. Meanwhile, a second officer arrived. As the man stood talking to the officer with his arms outstretched, one hand

[18] MPD Policy & Procedure Manual, § 5-311, Use of Neck Restraints and Choke Holds (effective April 16, 2012).
[19] MPD reported 197 neck restraints. We identified one unreported 2021 neck restraint.

holding a beer and the other hand empty, the second officer crept up behind him. The second officer wrapped one arm around the man's neck until he was unconscious, and the officers handcuffed him after he slumped to the ground. Squeezing the man's neck until he lost consciousness was dangerous and unjustified. It also violated the neck restraint policy in effect at the time, which did not authorize using an "unconscious neck restraint" to overcome passive resistance.

Our review revealed several instances where MPD officers applied pressure to the necks of youth who did not pose a threat. For example, an officer and his partner responded to a call from a mother who wanted them to remove her teenage children from the home and claimed they had assaulted her. The officers confronted a Black 14-year-old, who was lying on a bedroom floor playing with his phone. The officers moved to arrest the teen, but he pulled away. One officer—Derek Chauvin—struck the teen in the head with a flashlight multiple times and pinned him to the wall by his throat. He then knelt on the teen's back or neck. The mother pleaded, "Please do not kill my son . . . He's only fourteen! . . . . You've already got him in the handcuffs. Please take your knee off my son." Mr. Chauvin kept his knee on the teen's neck or back for over 15 minutes.

These uses of deadly force—head strikes and kneeling on the teen's neck—created a grave risk to the teen. Mr. Chauvin used this deadly force even though the teen did not pose a threat, was following orders, and was crying from pain. Due to poor supervision and a failed force investigation, MPD command did not learn what had happened to the teen until three years later, after Mr. Chauvin killed George Floyd. The City recently agreed to settle the teen's lawsuit for $7.5 million.

On June 9, 2020, MPD changed its use of force policy to ban the use of all neck restraints and chokeholds.[20] This positive step met considerable resistance. We spoke to officers and supervisors who called the ban an overcorrection, "knee jerk" and "politically driven." Some officers continued to see neck restraints as an efficient and reliable tactic. Officers warned that the ban would lead to an increase in force overall, because, as one officer put it, "if you can't touch the head or neck, the result is you punch 'em." These views took hold as MPD did not train officers in alternative tactics until the year after the ban.

MPD officers have used neck restraints since the ban. In August 2020, two months after the ban, an officer used a neck restraint on a Black man to keep the man from running

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[20] *See* Stipulation and Order, *State of Minnesota v. Minneapolis Police Department,* No. 27-CV-20-8182, Index #9 at 4–5, 2020 WL 8288787 (Dist. Ct. Minn., 4th Judicial Dist., June 8, 2020), *available at* https://publicaccess.courts.state.mn.us/CaseSearch (search by case number).

away with shoes he stole from a sneaker store. In a separate incident in 2021, an officer admitted to using a neck restraint on a protestor. MPD officers had ordered people to leave the protest, and many refused. A fight between protestors and officers ensued, and officers arrested some of the protestors. One officer explained, "He swung at me and then, you know, I had him in a neck restraint." MPD must ensure that its ban on neck restraints is fully honored.

2. MPD Uses Tasers in an Unreasonable and Unsafe Manner

MPD officers carry two types of "conducted energy weapons," commonly called "tasers." A taser can be activated in two modes—probe and drive stun.[21] In probe mode, an officer fires two barbs into a person's body, piercing the skin to send incapacitating jolts of electricity. In drive-stun mode, an officer presses the taser "strongly, with forceful pressure" against a person's skin, pulling the trigger to deliver a burning electrical charge. In either mode, tasers can cause excruciating pain. Tasers can also display a warning "arc," which involves an audible, visible electric current arcing out of the taser, without firing the probes.[22]

Taser Probes

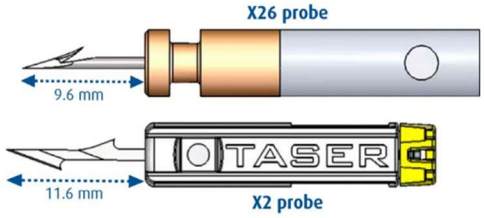

Figure 1 Comparison of the TASER® X26™ and X2™ probes

Officers do not appear to use tasers consistent with MPD policy. MPD provides that tasers should generally be used in the probe mode. But we often saw officers use it inappropriately in drive-stun mode. Drive-stun mode is problematic because it does not incapacitate the person, and it often escalates encounters or incites a person to fight back. In several instances, we saw officers deploy multiple, successive activations. Instead, officers should re-assess the need for further activations after each taser cycle because exposure to repeated applications of a taser totaling longer than 15 seconds may increase the risk of serious injury or death.

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[21] *Bachtel v. TASER Int'l, Inc.*, 747 F.3d 965, 967–68 (8th Cir. 2014) ("Electronic control devices known as tasers entered the market in 1994 and are commonly used by law enforcement agencies across the United States. The specific model used by [the officer]—the model X26 ECD—had been introduced by TASER International, Inc. in 2003. When fired, the X26 ECD deploys two probes which attach to the body and deliver electrical current into the subject through thin insulated wires. Pulling and releasing the trigger of the X26 ECD results in a 5 second electrical discharge cycle, although an officer may extend the cycle by holding the trigger down. The device produces 19 electrical pulses per second, each pulse lasting about 100 microseconds and delivering a mean current of 580 volts. The electrical current forces the subject's muscles to contract, temporarily limiting muscle control and allowing police officers time to subdue the individual.").

[22] Source for Illustration: Ben Weston, *Taser Barb Removal*, Milwaukee County (Apr. 2023), https://county.milwaukee.gov/files/county/emergency-management/EMS-/Standards-of-Care/PSTaserBarbRemoval [https://perma.cc/28JE-7BCC].

MPD officers use tasers frequently and improperly. From January 1, 2016, to August 16, 2022, MPD officers used their tasers 564 times and pointed or unholstered them 1,039 times. We reviewed a sample of these incidents. Many of those encounters involved people known to have behavioral health issues. In a significant number of encounters, the associated offense was non-violent or did not involve a weapons-related offense. Sometimes, the only charge was obstruction of process. The unreasonable uses of tasers include: (1) using a taser multiple times without justification; (2) using a taser on people who do not comply with commands but are unarmed and pose no threat; and (3) using a taser after people submit or are already restrained. These taser practices are dangerous and unlawful.[23]

For example, an officer unreasonably used a taser eight times on a white man suspected of a minor offense—breaking a fence on a public sidewalk—who had initially complied with their orders. Upon arriving, the officers approached the man. One held her gun behind her back and the other pointed his taser at the man. They did not try to talk to the man or otherwise investigate whether he was committing a crime. The man obeyed the commands to stop, turn around, and show his hands. As the officer moved to handcuff the man, he tried to turn around to ask if they were police officers. The officer then lost control of the man's cuffed wrist, but quickly overpowered him, taking him to the ground. The officer continued to shout at the man to "put his hands behind his back." The officer then punched the man several times in the face before grabbing his neck. The man repeatedly pleaded for the officer to stop as the two rolled around in a struggle. The other officer drive stunned him with a taser eight times, for a total of 13.87 seconds, pausing between the seventh and eighth cycle to punch the man in the face. The officer's taser use during this encounter was unreasonable. Deploying successive taser cycles in drive-stun mode without giving the man a chance to comply is unreasonable.

Similarly, MPD officers often use tasers without providing a warning, even when warnings are feasible, and at times intentionally target vulnerable parts of the body. For example, an MPD sergeant pulled over an unarmed Black woman for an illegal U-turn. The woman approached the squad car distraught and yelling. The sergeant told her three times to go back to her car, but an apparent language barrier impeded the communication. The sergeant then pulled a taser and reversed the initial command from seconds earlier, telling the woman twice to "get over here." Without warning, the sergeant fired taser probes into the woman's chest and jolted her for five seconds. The sergeant then pushed the woman to the ground and fired the taser again without

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[23] *See Shekleton v. Eichenberger*, 677 F.3d 361, 366 (8th Cir. 2012) (finding facts establishing a Fourth Amendment violation where an officer used a taser against an unarmed person who was suspected of a minor violation, did not resist arrest, did not threaten the officer, and did not attempt to flee).

warning, this time into the woman's neck, for seven seconds as the woman cried "Don't kill me! Don't kill me!" The woman was not an immediate threat, and the sergeant's use of force was unreasonable. The force left the woman bleeding and shaken, and she spent time in jail for an obstruction charge. Meanwhile, MPD towed her car to an impound lot that sold it. The Office of Police Conduct Review (OPCR) dismissed her complaint because it "did not appear to involve [MPD] officers."

Officers also unreasonably use tasers in circumstances that create a risk of serious harm. In one example, officers fired their tasers seven times into a white man having a behavioral health crisis. The man stood on a sixteenth-floor apartment balcony holding two knives but did not approach or threaten the officers. Nevertheless, the officers tased the man despite the risk that he could fall from the balcony. When a taser incapacitates a person who has the potential to fall from an elevated position, like a balcony, the risk of harm is so great that MPD policy prohibits taser use in that situation unless deadly force would otherwise be permitted.

In addition to the taser incidents we reviewed as part of our sample, we also reviewed an incident that occurred during one of our ride-alongs with MPD officers. During the incident, an MPD officer used a taser on an unarmed Black man who was yelling and filming an accident scene. When the man did not follow the officer's commands to leave the scene, the officer pointed his taser and threatened to fire it. The man raised his hands and began walking backward away from the accident scene as he continued to film and yell at the officers. The officer advanced on the man and shot him with the taser, causing the man to fall to the ground. The man was following commands to leave and was away from the scene, so there was no apparent need for the officer to use a taser.

3. MPD Uses Unreasonable Takedowns, Strikes, and Other Bodily Force, Including Against Compliant or Restrained Individuals

From January 1, 2016, to August 16, 2022, MPD used bodily force during 7,690 encounters. We reviewed numerous incidents involving takedowns, strikes, and other bodily force. We found that officers consistently used bodily force when they faced no threat or resistance.

MPD officers used bodily force in ways that are unreasonable. MPD officers aggressively confront people suspected of a low-level offense—or no offense at all—and use force if the person does not obey immediately. Officers sometimes used force against people who were already compliant or handcuffed. In many instances, MPD officers shoved adults and teens—including bystanders—for no legitimate reason. Such uses of bodily force are retaliatory and violate the Fourth Amendment.

a. MPD Uses Force Against Restrained Individuals

In reviewing our sample of less-lethal incidents, we saw that MPD officers frequently use "gratuitous force." Gratuitous force is force used on individuals who have already been restrained, subdued, and handcuffed. It is a "completely unnecessary act of violence," and it violates the Fourth Amendment.[24]

We found MPD officers often use force on people who are not resisting. In one incident, an officer threw a handcuffed Black man to the ground face-first, claiming he had "tensed up" during a search while other officers had him bent over the hood of a squad car. For several minutes before the takedown, the man had been compliant, submitting to being cuffed and searched. He occasionally lifted his head or torso up from the hood of the squad car, and officers quickly pressed him down and held him by the neck, chest, or arms. One of the officers who was pinning him to the squad car said, "You are going to get thrown on the ground in a minute if you keep this up." Less than two seconds later, a different officer hooked the front of the handcuffed man's neck with his arm and took him to the ground. The man's head struck the pavement, and the officer rolled the man onto his stomach and held him down by putting his knee on the man's neck. Body-worn camera footage from this incident shows that the man was compliant with the search and was not resisting. In fact, after the officers pushed him on the hood, they took their hands off him while the search continued. There was no reason for the officer to forcibly take the man to the ground by the neck.

Using force against a handcuffed person creates a risk of serious injury. In one incident, an MPD officer used force against an unarmed, handcuffed white man reported to have been trespassing inside a vacant house. When the man attempted to go back inside the house, the officer grabbed the handcuffed man by the neck, dragged him down several steps, and threw him on his back. The officer pressed his body weight and palm against the man's chest and face, and the man screamed that the officer was "gouging my eye." The officer then pressed his knee against the man's neck, and the man said, "Get your fucking knee off my head, it hurts." The officer responded, "No. This is how we operate." The supervisor concluded the use of force "follow[ed] policy."

In another incident, an officer expressed no remorse after using excessive force against a restrained person. A white man experiencing a behavioral health crisis was handcuffed to a stretcher. The man spat on an officer, who slapped and punched him in the face. After the man had been transported to a hospital, the officer said on body-worn

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[24] *Henderson v. Munn*, 439 F.3d 497, 503 (8th Cir. 2006) (quoting *Fontana v. Haskin*, 262 F.3d 871, 880 (9th Cir. 2001) (an officer's use of pepper spray on an individual who was subdued and handcuffed was a "[g]ratuitous and completely unnecessary act[] of violence.").

camera: “I’m really proud of myself; I only hit him twice.” The supervisor did not refer the officer for a misconduct investigation.

b. MPD Uses Unnecessary Force, Including for Failure to Comply with Orders Immediately

During our review of our sample of less-lethal force incidents, we observed a pattern of officers using unnecessary force, sometimes because the person failed to comply with an order immediately. There were many such instances, with officers using force within seconds of giving a lawful or even an unlawful order. We also saw MPD officers handcuff people even when officers knew the person was neither a threat nor a flight risk, which can be humiliating. Below, we describe only a few of the examples we found.

We determined that MPD officers are quick to use force on unarmed people, even without reasonable suspicion that they are involved in a crime or are a threat. In one such incident, an officer stopped a driver after seeing him strike a parked car. While the officer spoke with the driver, the Black passenger leaned against a car looking at his phone for four minutes. A backup officer arrived and asked the passenger to stand on the sidewalk, and the passenger complied, still looking at his phone. The backup officer then told the passenger to put his hands on his head and simultaneously grabbed the passenger’s left arm from behind. The passenger asked why and pulled away, and the backup officer took him to the ground. The backup officer wrote in his report that he told the man to put his hands on his head because he could not see the man’s left hand, but the body-worn camera shows the man’s left hand is visible and empty. The force was unreasonable because the backup officer had no reason to believe the passenger was a threat or had committed a crime.

In another incident, officers used unreasonable force to make a man do something he had a right to refuse. Two officers were responding to a fight-in-progress call and confronted a white man who was seated on a bench. One officer asked to examine the man’s nose because it was bleeding. “Do not touch me,” the man responded. The officer grabbed the man by the wrist, twisted it behind the man’s back and pinned his face to the bench. Meanwhile, the other officer grabbed and pulled the man’s ear and pushed him down. After they handcuffed the man, he asked, “Why are you doing this to me?” One officer responded, “We didn’t want to go this way, we wanted to go a different way, but you didn’t want to cooperate.” Because the man posed no threat, using force to inspect his nose over his objection was unlawful.

We saw many examples of officers unnecessarily handcuffing unarmed people. Casual use of handcuffing without justification violates the Fourth Amendment. It also violates current MPD policy, which only authorizes handcuffing during a detention in limited

circumstances (for example, when the person is uncooperative, is dangerous, or may flee). In one instance, officers handcuffed a Black driver whom they knew was unarmed and not a threat. Officers carefully searched the shirtless, compliant driver for weapons and found none. An officer then said, "OK, we're going to hook you up just for safety, OK?" and handcuffed the driver. The driver objected, but was forced to stand handcuffed by the side of the road for five minutes before being released. Handcuffing a person absent an objective safety risk is an unreasonable seizure and violates the Fourth Amendment.

c. MPD's Use of Chemical Irritants Like Pepper Spray Is Unreasonable

Our review of incidents involving chemical irritants (such as pepper spray) revealed that MPD officers often use chemical irritants without justification. From January 1, 2016, to August 16, 2022, MPD officers reported using chemical irritants 1,660 times. We reviewed a sample of incidents. Because MPD officers sometimes spray groups of people to disperse them and need not summon a supervisor unless someone is injured, the actual number of people sprayed is higher.

MPD officers use chemical irritants on people in an unreasonable and retaliatory manner that violates the Fourth and First Amendments. The use of chemical irritants constitutes "significant force" that can cause prolonged pain.[25] Officers violate the Fourth Amendment's prohibition on unreasonable force when they spray people who are not acting violently and who pose no threat to officers or others. Spraying such irritants on people engaged in protected activity, such as criticizing police, also violates the First Amendment's prohibition on retaliatory force. *See* pages 48–56.

MPD officers spray chemical irritants into people's faces even when those people pose little to no threat to anyone's safety. In one incident, an MPD officer responded to a call that an unhoused Black man was trying to light a fire in a parking garage. The officer was familiar with the man, who had "been doing this for the last couple of days," and seemed annoyed that he was responding to the same issue. By the time the officer found the man, he was standing in a surface lot across the street from the garage. The officer shook his pepper spray cannister as he approached the man, saying, "Hands where I can see them. Sit on the ground. I'm gonna mace ya." The man raised his hand with the lit lighter at the same time the officer began spraying him in the eyes. The man turned his face away in response to the chemicals, and the officer immediately took him to the ground. The man did not resist the arrest, and EMS transported him to the

[25] *Tatum v. Robinson*, 858 F.3d 544, 548–50 (8th Cir. 2017).

hospital “for further treatment.” Because the man was not fleeing and posed no immediate threat of harm, the use of pepper spray was unreasonable.

We also identified incidents where MPD officers indiscriminately fired pepper spray into groups of people to break up fights without first issuing warnings, providing opportunities to disperse, attempting lesser uses of force, or attempting to minimize injury to bystanders. This practice violates the Fourth Amendment’s prohibition on unreasonable force by using chemical irritants against people not engaging in violence or posing a threat to others.

Of particular concern are incidents where MPD officers pepper sprayed people in apparent retaliation for observing, questioning, or criticizing police activity, in violation of the First Amendment right to free speech. For example, an officer pepper sprayed two bystanders to a potential suicide call after they questioned what officers were doing. The two bystanders, who were friends of the person in crisis, remained a distance away from the officers and the person, and were not interfering with the police activity. Nevertheless, an officer walked over to them and sprayed them in their faces in response to their questions.

4. MPD Encounters with Youth Result in Unnecessary, Unreasonable, and Harmful Uses of Force

We identified many violations of the Fourth Amendment in incidents involving youth. In several incidents, officers did not use age-appropriate de-escalation—or any de-escalation—to avoid the use of force. These officers used force against youth that was unnecessary and harmful to their physical and emotional well-being.

Adolescence is a key stage of development in which young people tend to be more impulsive and have more difficulty exercising judgment than adults, especially in emotionally heightened situations.[26] These normal characteristics of adolescence increase the chances that encounters with police will involve conflict because, in the stress of a police encounter, youth may have difficulty thinking through the consequences of their actions and controlling their responses. Without adequate guidance about child and adolescent development and how to approach encounters with young people, officers may be more likely to misinterpret behaviors of youth and potentially escalate the encounter.[27]

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[26] Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 ANN. REV. CLINICAL PSYCH. 459, 466–68 (2009).
[27] Denise C. Herz, Improving Police Encounters with Juveniles: Does Training Make a Difference?, 3 JUST. RES. & POL’Y 57, 59 (2001).

Within MPD, much of the force officers use against young people results from officers' failure to de-escalate. MPD policies generally do not emphasize the particular importance of de-escalation in incidents involving youth, considering their key stage of development. The use of force policy also fails to meaningfully account for a child's age, size, and development with respect to specific use of force tools or tactics. For example, MPD has no minimum age for handcuffing or guidance on how an officer might exercise discretion in handcuffing a young person considering the severity of the underlying offense, the child's compliance with officer commands, or the risk of physical or psychological harm to the child or others. Likewise, MPD's policies provide insufficient youth-specific limitations on using certain kinds of force, such as bodily force, tasers, or pepper spray.[28] Youth-specific policies are needed to ensure that officers not only correctly interpret adolescent behavior they encounter, but also that officers know how to react appropriately using the tools and discretion at their disposal.

In one incident, officers executing a traffic stop for a broken taillight sought to remove a Black teen from the backseat of the car because he had not been wearing his seatbelt. The teen requested over 20 times that officers call a supervisor to the scene, and the driver asked twice. Instead, an officer threatened the teen with a taser to try to get him out of the vehicle. After the officer arced his taser, the teen repeatedly said, "I'm scared! I'm scared!" Instead of engaging in an appropriate, de-escalating manner with the teen, officers forcibly removed him, pinned him to the ground, and handcuffed him. This use of force was unreasonable.[29]

A taser poses a serious risk of physical and emotional trauma to a young person, including cardiac and respiratory injury, burns, musculoskeletal complications, falls, injury to tissue from taser barbs, triggering of epileptic seizures, and death.[30] MPD's taser policy states that a "heightened justification" is required for using a taser on "young children"[31]—but the policy does not define the term or otherwise describe the circumstances when taser use would be justified.

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[28] *See* MPD Policy & Procedure Manual, § 5-302, Use of Force Control Options, Section III.B–L (effective Aug. 21, 2020), https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf [https://perma.cc/868T-5W6J].

[29] *See* MPD Policy & Procedure, § 5-304(A), Use of Force Control Options (effective July 28, 2016) ("The threatened use of force shall only occur in situations that an officer reasonably believes may result in the authorized use of force.").

[30] *See Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults*, United Kingdom Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons (DOMILL), 4, (Jan. 27, 2012), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/443842/DOMILL14_20120127_TASER06.2.pdf [https://perma.cc/K2GN-C4T6].

[31] MPD Policy & Procedure Manual, *supra* note 28, § 5-302, Use of Force Control Options, Section III.H.2(e)(i) (effective Aug. 21, 2020).

MPD officers also use unnecessarily aggressive tactics in dealing with young people. In one incident, officers responded to reports of an assault and aggravated robbery in progress. When officers arrived, people were across the street and walking in different directions. Within 10 seconds of exiting his squad car, an officer pointed his gun at two unarmed Black teens. The officer told them to sit on the curb in the snow, and they complied. He pointed his gun at them a second time when one of the teens stood up. The officer continued to point his gun directly at them from a short distance, even once they had again sat down on the curb. Officers had no reasonable suspicion that the two teens were armed or posed an immediate threat. Pointing a gun in the faces of two unarmed teens was unreasonable. When we spoke to one of the teens about what happened, he told us he experienced sleeplessness, tension, and persistent paranoia afterward. He told us, "I thought it was going to be my last night."

Another incident illustrates the consequences of needlessly harsh treatment of youth. An MPD officer drew his gun and arrested an unarmed Black teen for allegedly taking a $5 burrito without paying. The officer, who was wearing street clothes, reported that he followed the teen out of the restaurant, unholstered his gun, and pinned the teen to the hood of a car. Several witnesses called 911 to report the teen was being accosted by a "wacko who has a gun." Other MPD officers then detained the teen in a squad car on charges of theft and obstructing legal process. Unholstering a gun was an unreasonable use of force in the absence of a threat. When we spoke to the teen's mother, she reported that after the incident her son experienced a sense of "helpless rage," as well as feelings of "frustration" and "powerlessness." The incident illustrates the need for youth-specific policies and training.

5. MPD Fails to Render Medical Aid to People in Custody and Disregards Their Safety

MPD officers routinely disregard the safety of people in their custody or people against whom they have used force, sometimes in violation of the Fourth and Eighth Amendments and MPD policy. Arrestees have a right to be free from deliberately indifferent denials of emergency medical care. Such denials are particularly egregious when the officer "actually knew" that the arrestee had "an objectively serious medical need" and disregarded the risk to the arrestee's health.[32] As for injuries that stem from an officer's use of force, courts will look to the extent of an individual's in-custody injury that results from an officer's use of force "as evidence of the amount and type of force used."[33]

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[32] *Bailey v. Feltmann*, 810 F.3d 589, 593 (8th Cir. 2016).
[33] *Karels v. Storz*, 906 F.3d 740, 746 n.2 (8th Cir. 2018).

Three of the officers prosecuted for their role in George Floyd's death were convicted of depriving Mr. Floyd of his constitutional right to be free from a police officer's deliberate indifference to his serious medical needs. But that was not the only example of deliberate indifference that we found; we saw incidents where officers minimized complaints or denied aid, including for people who needed potentially life-saving aid. After MPD officers shot a Black man in 2018, body-worn camera video shows that no officer provided medical aid for at least 11 minutes after the shooting, when the video ended.

Case Study: "I Need Help"

MPD officers arrested a woman (whom they knew from prior contacts) and transported her to jail. On the way, the woman said she was a Type One diabetic and that she could not see straight. She asked to see a doctor twice. The officers did not call for one.

When they arrived at the jail over ten minutes later, the handcuffed woman was limp in the squad car. The officers pulled her from the car and laid her on the concrete. As she lay on the pavement moaning, the woman said, "I need help." She again told the officers that she was diabetic and that she could not see. In response, an officer bent down over her and said, "Just so we're clear, since you're playing games, I'm gonna add another charge for obstruct, okay? So you're gonna spend more time in the clink. Okay?" As a nurse from the jail approached to examine her, the officer and his partner repeatedly undermined the woman's claims that she needed assistance, claiming, "She does this every time." One of the MPD officers also told the nurse that he didn't know if the woman was diabetic, but joked, "She's got tons of needles, I know that!"

After the nurse gave a brief examination, the woman laid back down on the concrete, barely moving. The officers then used a "Wrap" (a full-body restraint typically used to control combative people) to carry the woman into the jail.

MPD officers also fail to render medical aid to people in their custody or against whom they used force because they are skeptical of the person's claims of distress. "[W]hether an objectively serious medical need exists [is] based on the attendant circumstances, irrespective of what the officer believes the cause to be."[34] We found numerous incidents in which officers responded to a person's statement that they could not

[34] *Barton v. Taber*, 820 F.3d 958, 965 (8th Cir. 2016).

breathe with a version of, “You can breathe; you’re talking right now.” In another incident, after pepper spraying a group of people who were fighting, MPD officers ignored pleas to call an ambulance for one woman who needed help because she had asthma. Disregarding the serious medical distress of a person who is in custody or after a use of force is unlawful.

Officers also disregard the safety of people in their custody and thereby fail to protect them from harm. We saw several situations indicating that an officer disregarded an arrestee’s safety, including incidents where officers pushed people who were handcuffed and restrained with leg ties (called “hobbles”) into their squad cars, then slammed a car door on their legs or head. Officers did not seatbelt some handcuffed arrestees, leaving them to slide around in the back seat during transport. We also reviewed a 2018 incident where officers “hog-tied”[35] a compliant Black man, even though MPD policy has prohibited hog-tying since 2015. Treating a restrained detainee roughly, in evident disregard of their safety, including during a transport, can amount to excessive force in violation of the Fourth Amendment.[36]

6. MPD Fails to Intervene During Unreasonable Uses of Force

We observed a pattern of MPD officers failing to intervene to prevent unreasonable force. Police officers have a duty to “intervene to prevent the excessive use of force.” When an officer is “aware of the abuse and duration” of unreasonable force and does not try to stop it, this “permits an inference of tacit collaboration,” and the officer can be held liable for an unreasonable seizure under the Fourth Amendment.[37]

Throughout our review period, MPD has had a duty-to-intervene policy, and officers have been trained on it. In recent years, MPD has expanded its training on the duty to intervene. However, we saw numerous incidents in which MPD officers could have intervened to stop unconstitutional uses of force, but did not.

Indeed, years before Derek Chauvin murdered George Floyd, multiple other MPD officers stood by as Mr. Chauvin used excessive force on other occasions and did not stop him. In June 2017, an MPD officer failed to intervene when Mr. Chauvin slammed a handcuffed woman on the ground and held her down with his knee on her back and neck. The officer helped hold the woman down, then at Mr. Chauvin’s request, helped to put her in an ankle restraint. In September 2017, an MPD officer did not stop Mr. Chauvin when he beat a 14-year-old teen with a flashlight and then kneeled on his

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[35] “Hog-tying” is tying a person’s feet directly to their handcuffed hands behind the back.
[36] *Chambers v. Pennycook*, 641 F.3d 898, 908 (8th Cir. 2011).
[37] *Krout v. Goemmer*, 583 F.3d 557, 565 (8th Cir. 2009).

neck or back for more than 15 minutes. At least two other officers responded to the scene and found Mr. Chauvin kneeling on the teen. They did not intervene either. Neither Mr. Chauvin nor his partner reported that Mr. Chauvin had knelt on the teen's neck. And in May 2020, two officers failed to intervene to prevent Mr. Chauvin from killing Mr. Floyd.[38]

We saw other examples as well, which are described elsewhere in our report:

- An officer stood by and told a teenager to "shut up" while another officer held him in an unreasonable neck restraint. *See* page 53.
- Multiple MPD officers failed to step in as other officers repeatedly used unreasonable force against unarmed protesters. *See* pages 49–50.
- Multiple officers forcibly removed a teen from a car, pinned him to the ground, and handcuffed him—each with the opportunity to intervene to stop the unreasonable force. *See* page 23.
- Multiple officers fired tasers and a 40 mm launcher repeatedly at a white man who was experiencing a mental health crisis, even though he did not approach or threaten the officers, yet no officer intervened to prevent this unreasonable force. *See* pages 18 and 28–29.
- An officer failed to intervene during transport to prevent a hog-tied man from sliding and falling from the seat. *See* page 26.

These failures yielded little accountability. Despite MPD's policy requiring officers to intervene, between 2016 and the present, the only officers who were disciplined for violating the failure-to-intervene policy during that time period were the officers who failed to stop Derek Chauvin from murdering George Floyd. During that entire period, no other officer was disciplined for standing by while their colleagues violated someone's constitutional rights.

Beginning in the fall of 2021, MPD began to train officers about the duty to intervene using "Active Bystandership for Law Enforcement" (ABLE) training. ABLE training is meant to guide law enforcement agencies "in the strategies and tactics of police peer intervention."[39] In our interviews with Training Division staff, they confirmed that the duty

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[38] Former Officers Tou Thao, J. Alexander Kueng, and Thomas Lane were convicted of federal criminal civil rights violations. Mr. Thao and Mr. Kueng were found to have deprived Mr. Floyd of his right to be free from unreasonable force by willfully failing to intervene to stop Mr. Chauvin. *See* Department of Justice Office of Public Affairs, *Three Former Minneapolis Police Officers Convicted of Federal Civil Rights Violations for Death of George Floyd* (Feb. 24, 2022), https://www.justice.gov/opa/pr/three-former-minneapolis-police-officers-convicted-federal-civil-rights-violations-death [https://perma.cc/G892-YLG5].

[39] *See About ABLE*, Active Bystandership for Law Enforcement (ABLE) Project, Georgetown Law Center for Innovations in Community Safety, www.law.georgetown.edu/cics/able [https://perma.cc/NZ2J-UCJ7].

to intervene is a significant part of training. We encourage MPD to continue emphasizing these essential skills to keep officers and community members safe.

7. MPD's Inadequate Force Review System Contributes to Its Use of Excessive Force

Under MPD policy, supervisors only review a subset of force incidents, leaving several types of force incidents without a meaningful review. Officers must describe force more serious than an escort hold or taser/firearm display in a police report. MPD requires supervisor notification only following injuries or certain types of force (even absent an injury), including tasers and firearm discharges. When notified, supervisors must respond to the scene, investigate the use of force, and document their findings. Their assessment should include whether the force appears to have been objectively reasonable, given the totality of the circumstances. If the force appears unreasonable or violates policy, the supervisor must refer the incident to internal affairs.

MPD supervisors often do not perform adequate reviews of officers' uses of force. Supervisors frequently fill out a yes/no checklist of tasks but then do not assess the reasonableness of the force at all. When supervisors fulfill some obligations (such as interviewing the person who was subjected to force), they accept the officers' version of events without obtaining or considering—and sometimes outright dismissing—other evidence. Supervisors miss serious policy violations and do not identify officer misstatements. The lack of proper force review is dangerous. Where officers are not held accountable for misconduct, MPD loses the opportunity to correct officers' problematic tactics. Officers who use unreasonable force can go undetected, putting community members at risk.

In the incident involving the man whom an officer tased eight times without pausing, described above on page 17, the supervisor reasoned that the fact that the officers used force meant the man must have been resisting. The supervisor found no policy violations and did not mention the excessive use of drive stun, stating only that the officer "attempt[ed] drive stuns." When the supervisor interviewed the man after the force, the man insisted he "did exactly what [the officers] said." The supervisor responded, "[I]f you weren't resisting, they wouldn't have had to strike you."

Supervisors do not conduct meaningful force reviews even in situations involving life-threatening force. In the example described above where officers fired a taser and a 40 mm projectile launcher at a man who was experiencing a mental health crisis, the officers created a grave risk to the man when they cornered him on an exterior sixteenth floor balcony. See page 18. The responding sergeant deliberately turned off her body-worn camera to have a "professional conversation" with the involved officers. The

sergeant did not determine whether the force was reasonable or complied with policy, and the file contains no documentation of further review of the dangerous and unreasonable force.

Supervisors often take an officer's word for what occurred even when the video shows something different. In the incident involving the limp woman, described in the case study on page 25, officers used a "Wrap" to move her instead of rendering medical aid. The woman was limp and not combative. Nevertheless, the officers told their supervisor that they were using the Wrap because the woman was "uncooperative" (which would suggest to a supervisor that the woman was actively resisting) and "refused to comply with their orders." The supervisor accepted the officers' account notwithstanding video showing that the woman was not combative and that using a Wrap was inappropriate. The supervisor also should have noted from the video that the woman had told the officers she was diabetic, could not see, and wanted a doctor, but they instead threatened to criminally charge her and mocked her. Indeed, the supervisor in this incident committed his own policy violation by failing to conduct a proper on-scene investigation. He did not interview the jail staff witnesses because "they had already returned to their work assignments," and he did not interview the woman because "she had already been processed and booked into jail."

The inadequacies in supervisors' force reviews may be due in part to insufficient training. MPD does not provide adequate specialized training to supervisors in conducting force reviews. Instead, MPD provides supervisors with an overview of policy requirements, including a sample force review. The sample itself does not evaluate whether the force was reasonable and within policy.

MPD recently adopted an additional process called "Secondary Force Review." In a secondary review, another supervisor duplicates the work of the original supervisor, including review of "the information available . . . including BWC recordings made during the on-scene Supervisor Force Review." The secondary supervisor then "perform[s] an additional, separate review of whether the use of force was consistent with MPD policy."

Although MPD is to be commended for recognizing that supervisor force reviews have been inadequate, the secondary review process is unlikely to be a sufficient improvement. Without clear policies and effective training, the second supervisor is unlikely to do a better force review than the first. An MPD commander told us that force review requires "much more attention than a supervisor just signing off on it." It requires a full-time, dedicated investigative unit staffed with people who have experience and skill in evaluating force.

* * *

Unreasonable uses of force undermine trust in MPD and take an immeasurable toll on the Minneapolis community. We heard from people who lost loved ones in encounters with MPD. Even beyond the use of force itself, some spoke of other indignities they endured. One father told us MPD did not call to tell him an MPD officer had killed his adult child; instead, he learned his child had died when the coroner called to ask for their dental records. A surviving parent going through unimaginable pain described the attitude of MPD officers as, “You don’t matter, I matter.” Another father who lost a child told us MPD made his child “seem like a savage.” For him, three words expressed his views: “Enough is enough.”

B. MPD Unlawfully Discriminates Against Black and Native American People When Enforcing the Law

We have reasonable cause to believe that MPD engages in racial discrimination in violation of Title VI of the Civil Rights Act of 1964 and the Safe Streets Act.[40] These statutes prohibit law enforcement practices that have an unjustified disparate impact based upon race. Police practices that disproportionately affect people based on their race are unlawful unless there is a substantial, legitimate, non-discriminatory justification.[41]

Our conclusion is based on the following:

- MPD disproportionately stops Black and Native American people and patrols differently based on the racial composition of the neighborhood, without a legitimate, related safety rationale.
- MPD discriminates during stops when deciding who to search, conducting more searches during stops involving Black and Native American people than during stops involving white people who are engaged in similar behavior.
- MPD disproportionately uses force against Black and Native American people. MPD discriminates during stops by using force more frequently during stops involving Black and Native American people than stops involving white people engaged in similar behavior.
- The percentage of stops for which MPD officers documented race sharply declined following George Floyd's death, and MPD failed to take appropriate action to address these policy violations.
- Though MPD has long been on notice about racial disparities and officers' failure to document data on race during stops, and was made aware of expressions of racial bias by some MPD officers and supervisors, MPD has insufficiently addressed these issues.

These practices undermine community trust and violate federal law.

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[40] 42 U.S.C. § 2000d (Title VI); 28 C.F.R. § 42.104(b)(2) (Title VI); 28 C.F.R. § 42.203 (Safe Streets Act).
[41] *See N.Y. Urb. League, Inc. v. New York*, 71 F.3d 1031, 1036 (2d Cir. 1995); *Georgia State Conf. of Branches of NAACP v. Georgia*, 775 F.2d 1403, 1417 (11th Cir. 1985); *see also Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 524 (2015).

1. MPD Unlawfully Discriminates Against Black and Native American People During Stops

Though common, stops are not a small matter. Even low-level stops can be degrading to people and diminish their trust in law enforcement. Stops can result in uses of force, lasting physical and psychological effects, and legal consequences.[42] The harms of stops are particularly acute for people who experience repeated interactions with police and understand they are being stopped because of their race.

Our review showed that MPD disproportionately stops Black and Native American people and employs different enforcement strategies in neighborhoods with different racial compositions. During stops involving Black and Native American people, MPD conducts searches and uses force more often than it does during stops involving white people engaged in similar behavior.

a. MPD Stops Black and Native American People at Disproportionate Rates

We reviewed over five years of MPD data covering roughly 187,000 traffic and pedestrian stops from November 1, 2016, to August 9, 2022, to determine whether there were racial disparities.[43] We estimate these stops involved about 334,000 people.[44] We excluded highway stops from our analysis, as the race of people stopped on highways is less likely to reflect the racial composition of the neighborhood.

MPD stops Black and Native American people disproportionately compared to their shares of the population. MPD reported roughly 64,000 stops of Black people and 4,800 stops of Native American people, which we estimate involved 112,000 and 10,000 people, respectively. We estimate that MPD stops Black people at 6.5 times the rate at which it stops white people, given their shares of the population. Similarly, we estimate MPD stops Native American people at 7.9 times the rate at which it stops white people, given population shares.

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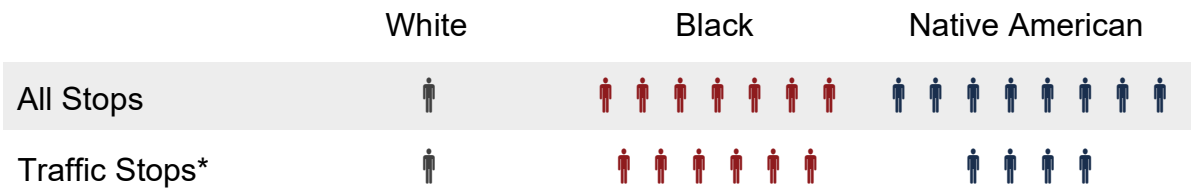
[42] *See Utah v. Strieff*, 579 U.S. 232, 252–55 (2016) (Sotomayor, J., dissenting) (citing Gabriel "Jack" Chin, *The New Civil Death: Rethinking Punishment in the Era of Mass Conviction*, 160 U. PA. L. REV. 1789, 1805 (2012); James B. Jacobs, *The Eternal Criminal Record* 33-51 (2015); Kathryne M. Young & Joan Petersilia, *Keeping Track: Surveillance, Control, and the Expansion of the Carceral State*, 129 HARV. L. REV. 1318, 1341–57 (2016)).

[43] MPD did not track data on ethnicity in a way we could analyze across our review period. As a result, we could not assess whether MPD's enforcement activities disparately impact Latino people.

[44] MPD's data collection structure created some challenges for our analysis. For example, MPD's data does not always clearly identify how many people were involved in a stop, so we estimated the number of people stopped per capita with help from statistics experts. Similarly, MPD's data does not always link specific searches to specific people. We still found significant racial disparities, as described in this report.

MPD's stops identified as "traffic law enforcement" and "suspicious vehicle" stops have similarly skewed per capita rates. We estimate MPD stopped 97 people during vehicle stops per 1,000 Minneapolis residents. But Black and Native American people were more likely to be stopped. Our estimates show MPD stopped 30 white people per 1,000 white residents during vehicle stops, but stopped 192 Black people per 1,000 Black residents and 126 Native American people per 1,000 Native American residents.

Per Capita Rates of Stops: Stops of White People Compared to Stops of Black and Native American People, Adjusted for Population Shares
November 1, 2016, to August 9, 2022



*Includes traffic law enforcement and suspicious vehicle stops.

b. MPD Employs Different Enforcement Strategies Based on the Racial Composition of the Neighborhood

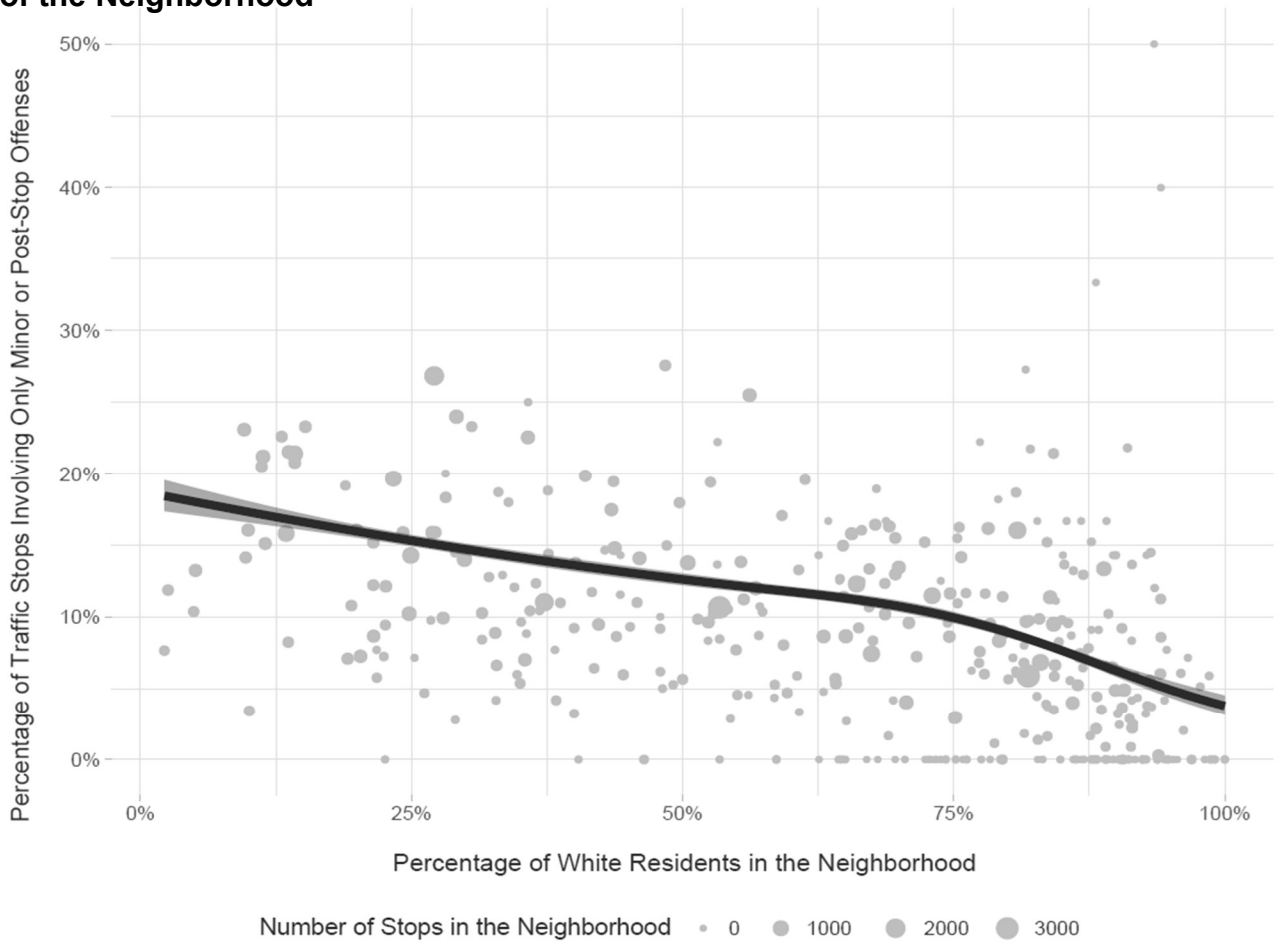
We further analyzed MPD traffic stops, taking into account the racial composition of the neighborhood and the offenses officers reported following stops.[45] Within each neighborhood, we examined the proportion of traffic stops that were for only minor reasons, based on the offenses reported (like excess sound, parking violations, or failure to signal), and the proportion of traffic stops where the offense could only have been discovered by MPD or could have only taken place after the traffic stop had already been initiated (like no proof of insurance or providing false information to an officer). For the purposes of this analysis, we refer to these collectively as "minor" violations or stops.

From November 1, 2016, to August 9, 2022, MPD initiated a significantly larger proportion of its traffic enforcement stops that resulted in minor violations in neighborhoods with fewer white people. When comparing the types of stops across neighborhoods, as the percentage of the white population in a neighborhood increased, the percentage of stops MPD conducted for minor reasons decreased almost

[45] For the purposes of this analysis, "neighborhood" means a census block group. There are 403 census block groups in Minneapolis. As before, we excluded stops and crashes on highways, as drivers on highways are less likely to reflect neighborhood demographics.

proportionally. Predominantly white neighborhoods saw far fewer minor traffic stops than neighborhoods with fewer white people. Stops in predominantly white neighborhoods targeted more serious activity.

Traffic Stops: Minor or Post-Stop Offenses Compared to the Racial Composition of the Neighborhood*



*Excluding stops on highways.

These racial disparities were not a result of traffic safety needs. Though we might expect to see MPD conduct more traffic enforcement in places with more accidents or fatalities, when we compared minor stops in neighborhoods with comparable traffic accident rates, we found that traffic safety did not explain the disparity. Even when traffic accident rates were the same in different neighborhoods, MPD initiated a larger portion of its stops for minor reasons in neighborhoods with fewer white people.

MPD has often used a strategy known as “pretext” stops to address crime. When police use this strategy, they stop cars and pedestrians—typically for minor violations—then

use the stop as an opportunity to look for evidence of some other crime, like possession of an illegal weapon.

Pretext stops are highly discretionary. To conduct a stop, an officer only needs reasonable suspicion to believe a person has violated a law. Even low-level ordinances that prohibit things like obstructing the sidewalk or being out after curfew can legally justify a stop. Pretext stops do not necessarily violate the Fourth Amendment.[46] But because so much everyday conduct can amount to a minor legal violation, officers are constantly exercising their discretion to decide who gets stopped, and that discretion creates opportunities for biased enforcement. Some officers told us they were given insufficient guidance about how to carry out MPD's enforcement priorities. While some supervisors said they were worried about micromanaging, officers would benefit from clear guidance and additional support. Further, MPD leaders told us no one at the City or MPD is responsible for regularly assessing MPD's data to ensure MPD is not pursuing enforcement strategies that result in unwarranted racial disparities.

MPD's focus on minor and/or pretextual stops has also led to inefficient use of limited resources. MPD leadership has persistently encouraged using traffic enforcement and stops of "suspicious" people and vehicles as a way to reduce violent crime and get guns off the street. One MPD presentation we reviewed described traffic law enforcement stops as the "top tactic used by MPD for illegal gun recovery." But only a small percentage of MPD's traffic stops resulted in recovering guns. For example, in 2018, MPD conducted roughly 32,000 vehicle stops, but recovered only 97 guns—meaning just 0.3% of traffic stops resulted in MPD recovering a gun.

Moreover, from November 1, 2016, to August 9, 2022, MPD data showed no record of a citation or arrest of any kind for 71.7% of traffic stops. The burden of these stops fell most heavily on Black and Native American people. MPD stopped but did not cite or arrest Black people at 5.7 times the rate at which it stopped but did not cite or arrest white people, given their shares of the population. And Native Americans were stopped but not cited or arrested at 5.9 times the rate.

These kinds of stops consume officer time. We conservatively estimated that from 2017 to 2019, when MPD relied heavily on low-level stops, officers spent thousands of hours per year on stops that did not result in a citation or arrest. Thus, while MPD's use of stops created stark racial disparities that violate the law, it also yielded few gains to public safety.

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[46] *See Whren v. United States*, 517 U.S. 806, 813 (1996).

In 2018, the Hennepin County public defender raised concerns that Black drivers were stopped more than drivers of any other race, disproportionately to the racial demographics of Minneapolis. MPD limited some low-level stops starting in January 2020, when it changed its policy and directed officers to stop ticketing drivers for specific equipment violations related to inoperable headlights, turn signals, rear lights, rear license plate lights, or parking lights. Instead of ticketing people, officers were to give drivers vouchers for repairs. But officers were still allowed to make traffic stops for those equipment violations, and could use those violations as a pretext to stop drivers for other reasons. In October 2021, MPD further modified the policy to prohibit officers from conducting stops for inoperable license plate lights, expired tabs, or an item dangling from the rearview mirror (unless it posed a safety risk). Today, MPD can still stop people for pretextual reasons for other low-level offenses, including other equipment violations that were not specifically enumerated in the policy. In 2021 and 2022, MPD conducted a dramatically smaller number of stops, and the percentage of traffic stops for minor offenses was more comparable across neighborhoods with different racial compositions. However, while there were smaller disparities in traffic stops, these policy changes did not reduce racial disparities in MPD's stops overall. From 2020 to 2022, we estimate MPD stopped Black pedestrians and drivers at 7.8 times the rate at which they stopped white people, given their shares of the population.[47] And for Native American pedestrians and drivers, the rate was 10 times higher.

c. MPD Unlawfully Discriminates When Searching Black and Native American People During Stops

When MPD conducts traffic and pedestrian stops, MPD searches Black and Native American people far more often than white people, compared to their shares of the population. MPD searches people during stops involving Black people at 12.8 times the per capita rate at which it searches people during stops involving white people. MPD searches people during stops involving Native Americans at 19.7 times the rate for white people. Similarly, MPD conducts vehicles searches during stops involving Black people at 16.5 times the per capita rate at which it conducts vehicle searches during stops involving white people. And MPD conducts vehicle searches during stops involving Native American people at 14.4 times the per capita rate.

To account for possible race-neutral explanations for these disproportionate searches, like possible differences based on how people of different races behave when stopped by police, we compared MPD's reported stops involving Black or Native American

[47] Excluding highway stops.

people with similar stops involving white people.[48] To do this, we used statistical models to estimate differences in stop outcomes across different racial groups, adjusting for numerous factors. We compared stops that occurred from November 1, 2016, to August 9, 2022, during the same year, month, and time of day (using a four-hour window), and that were identified by MPD as the same type of stop (like "suspicious person" or "curfew violation" stops) and offense category (like drugs or alcohol, traffic, or disorderly conduct). We also controlled for whether MPD reported certain behaviors as an offense (like assaulting an officer, violent or disorderly behavior, fleeing police, or possessing a weapon). In addition to looking at stops across the whole time period, we also looked separately at stops that occurred within our time period before and after May 25, 2020, to isolate MPD's more recent practices and determine whether there have been any changes.

When controlling for all these factors, we found striking racial disparities in MPD's searches, suggesting that MPD applies a different, lower standard when searching Black and Native American people.

During our review period, MPD officers conducted person searches during roughly 20,400 stops, including roughly 13,300 searches during stops involving Black people and 1,500 during stops involving Native American people.[49] We found racial disparities in search rates during our entire review period. From May 25, 2020, to August 9, 2022, for example, MPD searched people 22% more often during stops involving Black people than during stops involving white people at similar times, for similar reasons, and who were behaving similarly—at roughly 1.22 times the rate. Similarly, MPD searched people 23% more often during stops involving Native Americans than during stops involving white people in similar circumstances—at roughly 1.23 times the rate.

Compared to white people behaving similarly, Black people stopped by MPD are subjected to:

- **22% more searches**
- **37% more vehicle searches**
- **24% more uses of force**

Compared to white people behaving similarly, Native American people stopped by MPD are subjected to:

- **23% more searches**
- **20% more uses of force**

[48] For stops involving two or more people, MPD's data does not clearly identify which specific individual was the subject of a specific post-stop outcome. Therefore, the analyses of post-stop outcomes in this report measure whether there is discrimination in outcomes of stops *involving* a person of a specific race.
[49] The totals presented here and in the next paragraph exclude searches during highway stops.

MPD also conducted approximately 12,900 vehicle searches during our review period, including roughly 8,500 vehicle searches during stops involving Black people. Even when controlling for similar types of stops, at similar times, involving similar behavior, we found MPD disproportionately searched people's vehicles during stops involving Black people. For example, from May 25, 2020, to August 9, 2022, MPD searched vehicles during stops involving Black people 37% more often than during stops involving white people—at roughly 1.37 times the rate. We estimate that in that period alone, over 1,000 vehicle searches during stops involving Black people would not have otherwise occurred if the stop involved white people instead. MPD's discriminatory searches violate the law.

d. MPD Unlawfully Discriminates Against Black and Native American People When Using Force During Stops

MPD reported using force (excluding handcuffs and escort holds)[50] at significantly higher rates against Black and Native American people than white people, compared to their shares of the population.

MPD used force during over 15,000 encounters with individuals, including stops and other encounters. However, MPD used force against Black people at 9 times the rate that it used force against white people, given their shares of the population. MPD used force against Native American people at 13.9 times the rate. For almost every type of force, Black and Native American people experienced it at higher per capita rates than white people. Some of these disparities were extreme. For example, MPD reported using neck restraints during 197 encounters from January 1, 2016, to August 16, 2022. As we describe above, many of the neck restraints we reviewed were unjustified, regardless of race. However, MPD used this dangerous tactic on Black and Native American people at per capita rates that were 9.6 and 12.2 times the rate for white people, respectively.

We also found that MPD used force in over 1,000 encounters involving people under the age of 18. MPD used force against Black youth at a rate 12 times the per capita rate for white youth. And for Native American youth, the rate was 14 times higher. The use of force rates are different in another way, as well: while MPD used force on Black and Native American youth at lower rates per capita than they did on Black and Native American adults, they used force against Black and Native American youth at significantly higher rates than against white adults. We found striking disparities when

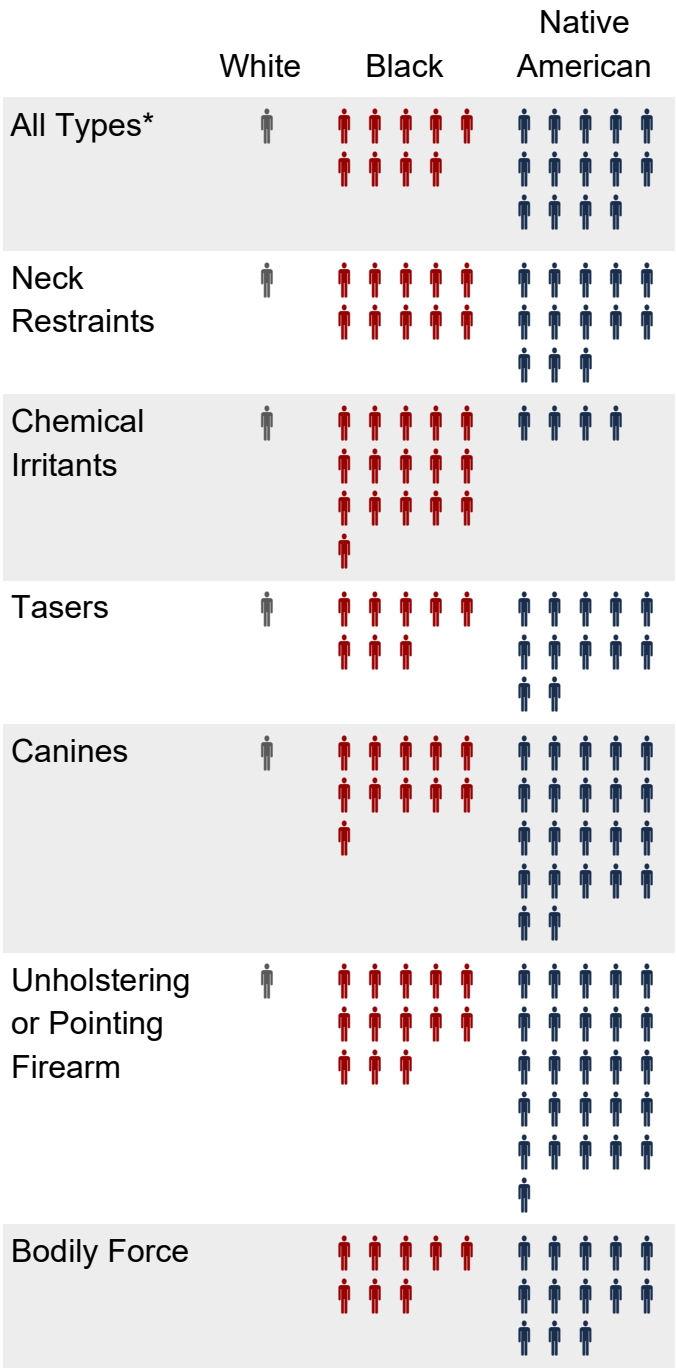
[50] MPD started documenting handcuffs and escort holds as uses of force in late 2020, following the death of George Floyd, and did so through 2022. Because they were not tracked for the whole period, we analyzed handcuffs and escort holds separately.

looking at specific types of force used against youth. For instance, MPD used bodily force against Black and Native American youth at rates 11.4 and 10.5 times higher per capita than they did against white youth, and at rates 1.8 and 1.7 times higher than they did against white adults. And MPD officers unholstered or pointed guns at Black and Native American youth at rates 13.5 and 19.6 times higher per capita than white youth, and at rates 4.7 and 6.8 times higher than white adults.

Given these racial disparities in MPD's reported use of force data, we next considered whether MPD discriminates when deciding to use force against Black and Native American people in similar situations, or whether instead there were possible race-neutral explanations for the racial disparities. Because MPD requires officers to report the race of people who are stopped, which allows us to compare similar encounters, we focused on MPD's use of force during stops. Stops in which MPD used force account for roughly 14% of all incidents where MPD used force. To control for possible factors that might result in the need for force, we compared stops involving white people with similar stops involving Black or Native American people, where the people involved reportedly behaved similarly, to see whether MPD discriminated when deciding whether to use force. We compared

Per Capita Rates of Force: Force Used Against White People Compared to Black and Native American People, Adjusted for Population Shares

January 1, 2016, to August 16, 2022



*Excludes handcuffs or escort holds.

stops reported by officers that occurred from November 1, 2016, to August 9, 2022, during the same year, month, and time of day, and that were identified by MPD as involving the same type of stop, offense category, and civilian behaviors, like assaulting an officer, violent or disorderly behavior, fleeing police, or possessing a weapon. We also looked at how MPD used force during stops that occurred from May 25, 2020, to August 9, 2022, to isolate MPD's more recent practices.

After controlling for all these factors, we found MPD discriminates when using force during stops. For example, between May 25, 2020, and August 9, 2022, MPD used force during stops involving Black individuals 24% more often (at roughly 1.24 times the rate), than it did during stops involving white people at similar times and who reportedly engaged in similar behavior.[51] During stops involving Native American individuals, MPD used force 20% more often (at roughly 1.2 times the rate).

Our analyses found even starker discrimination in certain parts of Minneapolis. For example, from May 25, 2020, to August 9, 2022, in the Third Precinct—where many Native Americans live and where supervisors told us the "cowboys" want to work—MPD used force 49% more often during stops involving Black people and 69% more often during stops involving Native American people than they did during similar stops involving white people. And during that same period, officers in the predominantly white Fifth Precinct used force against Black people 44% more often than against white people during similar stops. Our analysis shows that these precinct-level disparities are not explained by differences in people's behavior, the reason MPD documented for the stop, the offenses, the demographic makeup of the precinct, or even possible differences in policing strategies in different precincts. Indeed, Black and Native American people in Minneapolis face a higher risk of having force used against them during stops throughout the City.

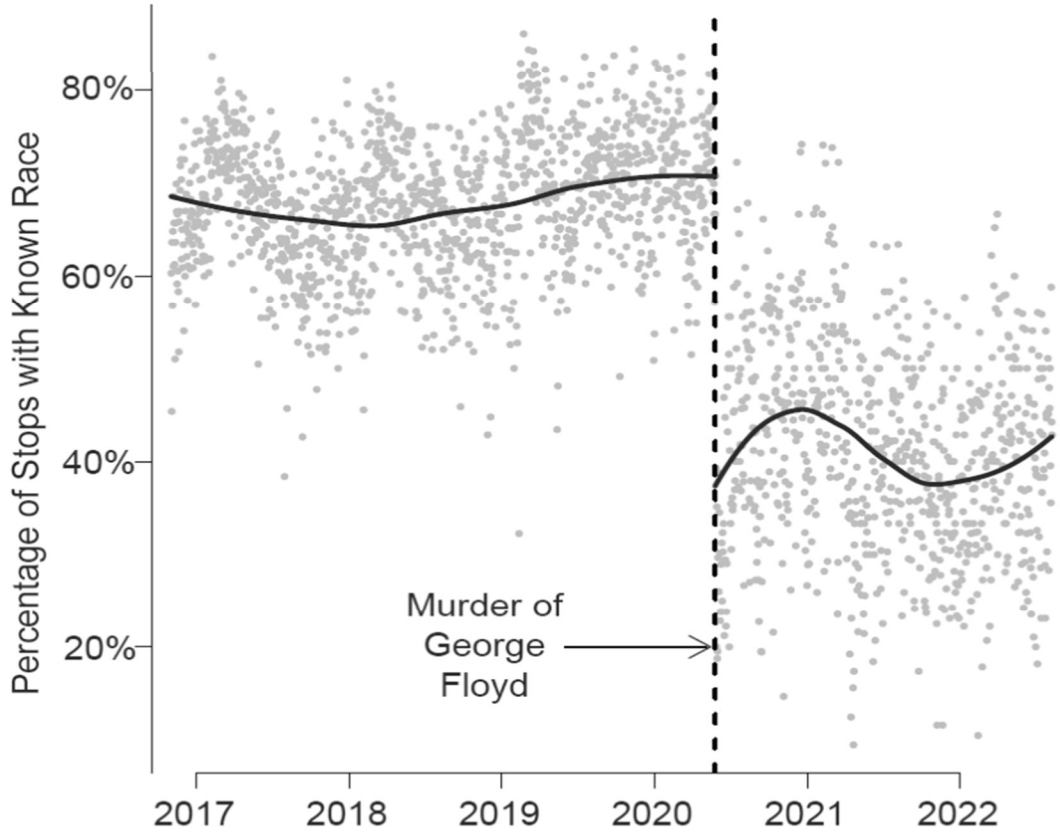
The racial disparities we found are unlikely to be based on race-neutral factors. MPD unlawfully discriminates against the Black and Native American people it stops by using force disproportionately.

[51] We did the same kind of analysis for handcuffs and escort holds and found similar disparities. From May 25, 2020, to August 9, 2022, for both Black and Native American people, MPD reported using handcuffs and escort holds 21% more often (at roughly 1.21 times the rate) than it did during stops involving white people at similar times and who reportedly engaged in similar behavior.

2. After George Floyd's Murder, Many Officers Stopped Reporting Race

Starting in late May 2020, officers suddenly stopped reporting race and gender in a large number of stops, despite MPD policy requiring officers to collect the data. We estimate the percentage of daily stops with known race data recorded dropped from about 71% just before May 25, 2020, to about 35% afterwards, a drop of roughly 36 percentage points. This sudden decrease in MPD officers recording racial data continued throughout the next two years.

Completeness of Data on Race in MPD Stops Over Time



Each dot represents the percent of recorded MPD stops with data on civilian race on a specific day.

We are not aware of MPD taking any action to address this widespread policy violation—a policy violation that can make it more difficult to detect and counter discrimination.

Still, our analyses of the reported racial data on or after May 25, 2020, showed significant racial disparities in searches and use of force, as described above.

3. MPD Has Failed to Sufficiently Address Known Racial Disparities, Missing Race Data, and Allegations of Bias, Damaging Community Trust

MPD and City leadership have been on notice about the kinds of racial disparities and missing race data we identify above for years. They have also been on notice about other complaints of discrimination, including expressions of bias by supervisors. The community, oversight officials, public defenders, government entities, researchers, and the press have been vocal about these issues, filing complaints and sharing detailed reports, qualitative analyses, and historical reviews. Nevertheless, MPD has not adequately addressed the issue of biased policing.

This report is not the first to identify racial disparities in MPD's law enforcement activities. Over the last decade, multiple reports have identified racial disparities in MPD's data on stops, searches, and uses of force similar to those we identify in this report—including, for example, the 2018 Hennepin County Public Defender report described above on stops and searches (see page 36), a 2021 presentation by a Hennepin County public defender on 2020 stops and searches (showing that Black drivers were more likely to be searched, but also more likely to be let go following a search because nothing was found), and a 2015 ACLU report analyzing data from 2012 to 2014 on low level arrests (showing Black and Native American people were more likely than white people to be arrested for low-level offenses).[52] Several reports contained recommendations for MPD to better track, assess, and reduce disparities.

City and MPD leaders admit they have known about MPD's shortcomings in this area. Mayor Frey told us after reviewing MDHR's 2022 report that "[w]e knew, and continue to know, there is disparate treatment" of communities of color. Despite this knowledge, however, MPD has not sufficiently addressed the racial disparities in MPD's enforcement practices, as discussed above. Perhaps more troubling, neither the City

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[52] *See, e.g.,* Jay Wong, *A Look at Racial Disparities in MPD Traffic Stops and Searches in 2020* (Apr. 22, 2021), https://lims.minneapolismn.gov/download/Agenda/1960/PCOC%20Traffic%20Stop%20Presentation.pdf/55573/2396/PCOC%20Traffic%20Stop%20Presentation; *Picking Up the Pieces: A Minneapolis Case Study*, American Civil Liberties Union (2015), https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/picking-pieces [https://perma.cc/D5T8-HD74]; *see also* Libor Jany, *Hennepin County Report Finds Stark Racial Disparities In Traffic Stops*, STAR TRIBUNE (Oct. 5, 2018), https://www.startribune.com/hennepin-county-report-finds-stark-racial-disparities-in-traffic-stops/495324581 [https://perma.cc/N5XF-P3WV]; Andy Mannix, *Black Drivers Make Up Majority of Minneapolis Police Searches During Routine Traffic Stops,* STAR TRIBUNE (Aug. 7, 2020), https://www.startribune.com/black-drivers-make-up-majority-of-minneapolis-police-searches-during-routine-traffic-stops/572029792/ [https://perma.cc/3P23-Y7AR]; Brandon Stahl, A.J. Lagoe, Steve Eckert, *KARE 11 Investigates*: *New Data Shows MPD Searches Black Drivers at 29 Times the Rate of Whites After Minor Stops,* KARE11.COM (May 6, 2021), https://www.kare11.com/article/news/investigations/new-data-shows-mpd-searches-black-drivers-at-29-times-the-rate-of-whites-after-minor-stops/89-7d1498a6-5fe3-4a9b-b1f9-a9dc72600829 [https://perma.cc/DAV5-MV3H].

nor MPD has tasked anyone with regularly and systematically assessing MPD's enforcement data to identify and take action to avoid unwarranted disparities.

MPD has also known about problems with MPD's data collection regarding race. MPD was put on notice of this issue at least eight years ago when the Police Conduct Oversight Commission (PCOC) reported that MPD recorded race for only 11% of 2014 suspicious person stops that did not lead to booking, and recommended MPD improve its collection of demographic information.[53] Other reports over the years made similar recommendations. However, as described above, MPD did not identify a person's race for roughly 30% of stops occurring from 2017 until just before George Floyd's death in 2020, and did not identify a person's race for 65% of stops just after Mr. Floyd's death. This was even after a change to a new records management system in 2018. These are not isolated omissions. Supervisors should have caught and addressed this issue long ago. MPD leadership also should have done more to address this issue, especially in light of 2021 reports by investigative journalists finding that the share of stops for which MPD reported race as "unknown" had risen significantly since 2016.[54] MPD has long failed to sufficiently improve data collection on race.

MPD and City leadership have also been on notice about disturbing incidents involving expressions of bias by officers. For years, community members have filed complaints alleging bias, filmed and shared videos documenting officer misconduct, and published detailed reports, including those summarizing MPD's history and explaining how Black and Native American people's negative experiences with MPD have resulted in distrust in MPD.[55]

During our investigation, we found evidence that some MPD officers, including supervisors, field training officers, trainers, and even a former member of MPD's command staff, have made discriminatory statements and committed discriminatory acts. As one officer told us, there is a lot of overtly racist conduct by MPD members.

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[53] *Investigatory Stop Detention Review*, Police Conduct Oversight Commission (Apr. 17, 2015) at 9–11, https://www2.minneapolismn.gov/media/content-assets/www2-documents/departments/Investigative-Stops-Documentation-Review.pdf.

[54] *See, e.g.,* Stahl et al., *supra* note 52*;* Brandon Stahl, A.J. Lagoe, Steve Eckert, *KARE 11 Investigates: Race Increasingly Listed as 'Unknown' in MPD Use of Force Reports*, KARE11.COM (July 8, 2021), https://www.kare11.com/article/news/investigations/kare-11-investigates-race-increasingly-listed-as-unknown-in-mpd-use-of-force-reports/89-2439f86f-0d19-4a0c-8bfa-e9be7b099979 [https://perma.cc/TGL6-75YZ].

[55] *See, e.g.,* Michelle Phelps, Amber Joy Powell, Christopher Robertson, *Over-Policed and Under-Protected: Public Safety in North Minneapolis,* Center for Urban & Regional Affairs, University of Minnesota (Nov. 17, 2020), https://www.cura.umn.edu/research/over-policed-and-under-protected-public-safety-north-minneapolis [https://perma.cc/V7YE-2E9M].

For example, during a May 2020 protest following the murder of George Floyd, a lieutenant was caught on camera expressing racist assumptions about Black people: "I'd love to scatter 'em but it's time to fuckin' put people in jail and just prove the mayor wrong about his white supremacists from out of state. Although, this group probably is predominantly white, 'cuz there's not looting and fires." Another officer agreed. The lieutenant oversaw MPD's use of force training—a position where he had enormous influence.

One officer told us that MPD officers make degrading comments to Black detainees about their intelligence or their family, or by invoking racially charged stereotypes with statements like "we'll get you Popeyes in a minute." Similarly, when an officer in plainclothes held a Black teen at gunpoint for allegedly stealing a $5 burrito (as described on page 24), in response to questions about whether he was a police officer, the officer responded on camera, "Really? How many white people in the city of Minneapolis have you run up against with a gun?" He also reportedly said of the teen words to this effect: "If he doesn't steal today, he will steal tomorrow." Statements like these undermine the community's faith in MPD, which in turn undermines public safety.

Some officers we spoke with aired fears and grievances about being perceived as racist, even as they made comments to us that themselves suggested bias and contempt for the people they are supposed to serve. For instance, one officer we rode with said of a young Black man standing on the side of the road, apparently waiting for a ride, "He's so guilty."

We heard from several MPD employees that some officers also express bias directly to other officers. One Black officer told us about statements by officers condoning disrespectful racial stereotypes and tropes, such as calling Black people "ghetto," and saying, "Black people don't work," and "you don't have to worry about Black people during the day 'cuz they haven't woken up—crime starts at night." This officer told us that they try not to appear offended and refrain from reporting comments like this for fear of retaliation. The officer recalled not receiving backup on dangerous calls after reporting misconduct, impacting public and officer safety and MPD's effectiveness. When a permissive culture—furthered by expressions of bias by supervisors and other MPD leaders—results in some officers being afraid to serve their community because they cannot rely on their peers, the breakdown in supervision becomes mission critical.

It would not be challenging for MPD to identify expressions of bias like these. In fact, in the incidents we heard about, officers made little effort to hide them. Some officers act as though they are unconcerned about being held accountable for even egregious discriminatory misconduct. For example, in late 2020, a woman called MPD to ask about a man she believed was putting flyers threatening Black Lives Matter supporters

onto vehicles. She told us that the officer who answered said Black Lives Matter was a "terrorist" organization and stated: "We are going to make sure you and all of the Black Lives supporters are wiped off the face of the Earth." He said, "I think you should file a complaint, and I want you to do it well, so let me spell my first and my last name so you get it right. Then I'll give you my badge number." The woman asked to speak to a supervisor, but the officer refused to transfer her or take her contact information.

The woman filed a complaint the next day but was not interviewed for seven months. Though she described the officer's threat to us as a "discriminatory comment, mostly against Blacks or people of color," MPD did not investigate for bias. Instead, the investigation was for failure to engage in "professional policing." The investigation concluded in February 2022 with a finding of "no merit" and no discipline or coaching. The officer had been the subject of at least nine previous complaints since 2017 (including at least one about racial profiling that was dismissed for unclear reasons). The woman told us the officer "sure felt like he was above any repercussions," and he was. He still works for MPD.

That was not the only racial bias complaint that was treated as something else. As discussed later in this report, in 2020 MPD failed to investigate a Black woman's explicit complaint of discrimination and unlawful arrest after she called 911 for help for her white partner, instead investigating only potential failures to adhere to MPD's body camera policy and engage in "professional policing." *See* page 72.

In incidents where we found MPD did hold officers accountable for biased conduct, it was often only after public outrage, and even then, MPD failed to communicate a clear message to officers, supervisors, and the public. For example, in 2015, MPD officers stopped a car carrying four Somali-American teens. According to an arbitrator assigned to review discipline, an officer approached the car with his gun drawn and ordered a teen to get out, threatening: "If you fuck with me, I'm gonna break your leg before you even get a chance to run." When the teen asked why he was being arrested, the officer replied, "Because I feel like arresting you." Later, when one of the teens told the officer, "[Y]ou're a racist, bro," the officer responded: "Yep, and I'm proud of it." He added, "Do you remember what happened in Black Hawk Down when we killed a bunch of you folk? I'm proud of that . . . . We didn't finish the job over there . . . if we had . . . you guys wouldn't be over here right now." None of the other officers present intervened or reported their colleague, according to news reports. It was not until weeks later, when cellphone footage went viral, that MPD opened an investigation, eventually firing the officer. Afterward, the City did not release evidence of the most troubling comments until required to by a public records lawsuit, nearly five years later. MPD thus missed the opportunity to send a strong message to officers, the Somali community, and the broader public that MPD does not tolerate or condone this behavior.

Fourth Precinct Christmas Tree

In another example, in 2019, two MPD officers put racist decorations on a Christmas tree in the lobby at the Fourth Precinct station, including a pack of Newport cigarettes, malt liquor cans, Funyuns, police tape, and a Popeyes cup: “Trash, literally,” as Mayor Frey described it to us. “Super racist stuff.” The officers were fired and the inspector of the precinct was demoted after the community found out about the tree. The inspector of the precinct was seen on video walking by, laughing at it, and failing to take action, showing a failure of supervision and suggesting there would have been no discipline if the community had not seen the tree.

The tree sent a clear message to the community. In the aftermath of the incident, one protestor explained, “[I]n essence, they’re calling us trash . . . This incident is a direct reflection of how officers that work in the Fourth Precinct view and feel about the community.” Even here, where City and MPD leadership took decisive action, any message that MPD takes these issues seriously was lost on some uninvolved supervisors, who described the incident to us as a “joke” and told us the reaction was overblown. If MPD meant to convey that biased behavior is at odds with MPD’s core values, and that supervisors needed to help push that message down through the ranks, the message was apparently not received. These examples illustrate supervision failures and apparent efforts to appease the public when they happen to learn of misconduct, rather than a holistic effort to reform MPD’s culture.

MPD and City leaders have acknowledged that MPD has contributed to “historical and present day trauma.” One leader put it succinctly: “We haven’t done right by people.”

When policing strategies produce racial disparities, cities should consider alternative approaches to public safety that do not generate unequal and harmful impacts on people of color. To its credit, in recent years, Minneapolis has pursued approaches to addressing crime other than through policing. For example, the City has been working with teams of violence interrupters—trained community members who use informal mediation and non-physical conflict resolution to prevent violence. In January 2023, the

City created a Neighborhood Safety Department to prevent and address violence from a public health perspective. Among other strategies, the Neighborhood Safety Department manages violence interrupters, provides hospital-based support for victims of violent assaults, and operates a Violence Prevention Fund to invest in community-proposed solutions to issues related to violent crime.

Both Mayor Frey and Chief O'Hara expressed a desire to engage with community-based responses to violence like violence interrupters and hospital-based interventions. However, as Chief O'Hara acknowledged, law enforcement officers can be resistant to these approaches. At times, we saw MPD officers express open resentment for violence interrupters. For example, at a protest in October 2020, a sergeant who was preparing to make a mass arrest learned that violence interrupters were present. He responded, "Oh good. They'll get arrested too."

* * *

MPD engages in unlawful racial discrimination that has taken a toll on its relationship with the community. The result is diminished public safety and a breakdown of community trust in MPD, not just of those who have directly experienced discrimination, but also of those who learn MPD is not protecting and serving all Minneapolis residents equally.

C. MPD Violates People's First Amendment Rights

The First Amendment reflects a "profound national commitment" to the principle that "debate on public issues should be uninhibited, robust, and wide-open."[56] Police retaliation against speech is antithetical to this commitment: "The freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state."[57]

To assess MPD's conduct at protests, we reviewed hundreds of body-worn camera videos from 22 different protest events that occurred between 2016 and the present. We reviewed thousands of documents, including MPD's protest planning materials, as well as its internal policies and trainings related to protests and crowd-control tactics. We spoke to scores of individuals who had information about MPD's protest response, including protesters, journalists, community advocates, attorneys in relevant litigation, and MPD supervisors and line officers. We also reviewed publicly available evidence, including evidence submitted during relevant litigation and videos and accounts from citizens and journalists.

We found that MPD violates the First Amendment in four ways. First, MPD officers retaliate against protesters. Second, MPD officers retaliate against journalists and unlawfully restrict their actions during protests. Third, MPD officers penalize people who challenge or question them during stops and calls for service. Fourth, MPD officers unlawfully interfere with individuals' right to observe and record police activity.

1. MPD Violates Protesters' First Amendment Rights

Police cannot deliberately interfere with free expression or punish protesters for their protected speech.[58] Nevertheless, MPD officers regularly retaliate against people for their speech or presence at protests—particularly when they criticize police.

This retaliation frequently manifests as force. For example, at a June 2021 protest of a police shooting, an MPD officer pushed a protester so hard that she fell backward, hit the pavement, and lay unconscious for three minutes. Other officers had told the protester to move back, and she did; she was walking backwards when one of them pushed her on the shoulder. When she responded, "Don't fucking push me, asshole," the officer pushed her again, this time so hard that he knocked her to the pavement. The woman needed 12 staples in her head, spent two days in the hospital, and suffered

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[56] *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).
[57] *City of Houston v. Hill*, 482 U.S. 451, 463 (1988).
[58] *Nieves v. Barlett*, 139 S. Ct. 1715, 1722 (2019).

a traumatic brain injury. That protester was not the only one shoved that day. At the same protest, another MPD officer ran up behind a protester who was walking away and shoved him forcefully in the back. Another officer shoved a man who was standing on the sidewalk recording the police.

Crowds of peaceful protesters sometimes include people who are breaking the law. When this happens, the proper response is to address "those who actually engage in such conduct," and not "suppress legitimate First Amendment conduct as a prophylactic measure."[59] However, MPD officers frequently use indiscriminate force, failing to distinguish between peaceful protesters and those committing crimes. For example, MPD officers regularly use 40 mm launchers—firearms that shoot impact projectiles, like rubber bullets—against protesters who are committing no crime or who are dispersing. In one incident, an MPD officer shot several times toward a distant crowd, even though he had no clear target, limited visibility, and was—according to MPD training—too far away to ensure accuracy. Around the same time, a nearby journalist was hit by a rubber bullet and lost her eye.

In other protests we reviewed, we saw MPD officers throw blast balls—rubber grenades that cause a loud, bright explosion and can contain tear gas or pepper spray—and other gas munitions into crowds of protesters who were not committing any crime. At times, officers celebrated this behavior. During the George Floyd protests, one officer encouraged another to throw a flash bang grenade into a crowd of protesters: "Think you can get it right in that crowd, bro?" The officer responded, "You mean throw one? I'll just fucking throw it. They'll scatter real quick." Shortly afterward, the officers congratulated one another for hitting fleeing protesters with rubber bullets: "You hit him! Nice!" These indiscriminate uses of force suggest that officers' true purpose is not to prevent criminal activity, but to retaliate against protesters for their constitutionally protected speech.[60]

At times, if protesters break the law or do not comply with officers' lawful commands, officers may have a basis to use force. But in those situations, MPD officers frequently respond with more force than is reasonable and continue using force after any resistance or threat has passed.

For example, in March 2021, a group of protesters threw snowballs, tore down caution tape, and blocked the street with their bikes to prevent police from assisting in clearing

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[59] *Collins v. Jordan*, 110 F.3d 1363, 1372 (9th Cir. 1996).
[60] *See, e.g.*, *Black Lives Matter Seattle-King Cnty. v. City of Seattle*, 466 F. Supp. 3d 1206, 1214 (W.D. Wash. 2020) (finding that "the use of indiscriminate weapons against all protesters—not just the violent ones—support[ed] the inference that" police had a retaliatory motive); *Don't Shoot Portland v. City of Portland*, 465 F. Supp. 3d 1150, 1155–56 (D. Or. 2020) (same).

an encampment for unhoused people. They also verbally taunted the police. When officers arrested them, some protesters physically resisted. But even after protesters were restrained, officers beat, kicked, and shoved them. One officer repeatedly punched a protester in the abdomen while he was restrained. Another officer, using his full body weight, kneed a passive, restrained protester in the neck as he lay face down—an act that amounted to deadly force.

Retaliation need not rise to the level of physical force to offend the First Amendment. Any action—including a threat of harm—that would discourage the average person from exercising her right to speak or protest can constitute a violation.[61] But MPD officers routinely threaten to use unjustified force against peaceful protesters because of their protected speech. In one 2021 case, an officer pointed his 40 mm projectile launcher at a protester after the protester cursed at another officer. In response, another protester shouted: “Don’t aim at him! He can use words!” The protester was right, and this sort of police intimidation strikes at the heart of the First Amendment.

40 mm Launcher

[61] *Black Lives Matter Seattle-King Cnty.*, 466 F. Supp. 3d at 1213.

2. MPD Retaliates Against Journalists and Unlawfully Restricts Their Access During Protests

The press has a distinct and essential role in maintaining our democracy. When reporting on government conduct, the press serves as "surrogates for the public,"[62] and their work gathering and sharing information "enable[s] speech."[63] Accordingly, reporting is a constitutionally protected activity, and the First Amendment prohibits retaliation against individuals for gathering the news.[64]

Regardless, MPD officers regularly retaliate against members of the press—particularly by using force. For example, in October 2020, an MPD sergeant repeatedly pushed a journalist who was actively filming, verbally identified himself as press, and had a press credential around his neck. In the police report, the sergeant falsely claimed that the journalist was leaning against a business owner's truck and that the sergeant had simply "moved the media member off the vehicle." Body-worn camera footage clearly shows that the journalist was standing at least a foot away from it.

Pepper Spraying of Journalist

[62] *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980).
[63] *Quraishi v. St. Charles Cnty.*, 986 F.3d 831, 838–839 (8th Cir. 2021).
[64] *Id.* (citing *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972)).

In another case, on May 30, 2020, officers encountered journalists who were sheltering at a gas station. An officer, pointing a 40 mm launcher, approached a journalist who was filming, holding up his press credential, and shouting, "I'm press!" The officer forcefully pushed the journalist's head to the pavement. As he lay on the ground, the journalist held up his press credential. In response, an MPD sergeant pepper sprayed him directly in his face, then walked away.

MPD officers also interfere with newsgathering by unlawfully limiting journalists' access to public spaces where protests take place, and thus their ability to report on police activity. The First Amendment requires that any restrictions on when, where, and how reporters gather information "leave open ample alternative channels" for gathering the news.[65] Blanket enforcement of dispersal orders and curfews against press violates this principle because they foreclose the press from reporting about what happens after the dispersal or curfew is issued, including how police enforce those orders.

However, MPD regularly enforces general orders to disperse against members of the press. For example, at a 2021 protest, two officers approached a journalist who was standing on a sidewalk recording police and repeating, "I'm media! I'm media." Both officers told him that he had to leave. One of the officers then said, "Time to go!" and forcefully shoved the man down the sidewalk.

During the George Floyd protests in May 2020, Governor Tim Walz imposed an 8 p.m. curfew with an explicit carve-out for press. MPD officers enforced the curfew against the press anyway. In one case, officers approached a group of journalists who identified themselves as press and carried cameras and microphones. An MPD sergeant screamed at the journalists to "fucking go!" As the journalists packed to leave and tried to open a large gate to exit, two officers pepper sprayed them at close range.

3. MPD Unlawfully Retaliates Against People During Stops and Calls for Service

MPD's retaliatory conduct is not limited to protests. During stops and calls for service, officers retaliate against people who question or criticize them. This violates the law: "Criticism of officers, even with profanity, is protected speech."[66] Nevertheless, MPD officers routinely respond to protected speech with arrests and with force.

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[65] *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984).
[66] *Laney v. City of St. Louis*, No. 4:18-cv-1575, 2021 WL 4439252 (E.D. Mo. Sept. 28, 2021) (citing *Thurairajah v. City of Fort Smith*, 925 F.3d 979, 985 (8th Cir. 2019)); *see also City of Houston v. Hill*, 482 U.S. 451, 461 (1987) (yelling obscenities and threats at a police officer is still protected under the First Amendment).

For example, in 2017, MPD officers responded to a disturbance call about a college party. A 19-year-old yelled, “Fuck the police!” as he walked past two officers. One of the officers grabbed him and asked him whether he had said, “Fuck the police.’” The teen responded (correctly) that he had the right to say it. “No,” the officer replied, “You can’t.” Another officer put the teen in a neck restraint, and the teen screamed, “I can’t breathe!” The officer then pulled the teen, still in a neck restraint, backwards towards the patrol car. Once the teen was in the back seat, another officer approached the car to weigh in: “Hopefully you can tell your friends when you say, ‘Fuck the police,’ now you understand that’s actually not legal unless you’re in a riot or a display of protest.”

That officer was wrong. The First Amendment protects criticism, including profanity, directed to police officers. Nevertheless, we saw MPD officers repeatedly retaliate against people who criticized them. In one case, after a man said he planned to file a complaint against police officers, an officer shoved him so hard that he fell and struck his head on the sidewalk. In another case, during a trespassing call, an officer followed a man for two blocks and repeatedly shoved him after he had already left the property because the man had verbally antagonized him. This conduct violates the First Amendment.

4. MPD Unlawfully Retaliates Against People Who Observe and Record Their Activities

MPD officers also retaliate against people who watch or question them. This violates the law. So long as it does not actively interfere with police conduct, people have the right to observe police officers’ conduct and express views about it, even if it causes an officer a momentary distraction.[67]

But MPD officers regularly arrest and use force against people who exercise these core First Amendment rights. For instance, in one case discussed on page 22, two bystanders attempted to observe an interaction between MPD officers and a man who was having a mental health crisis. When they verbally objected to the officers’ actions, one officer pepper sprayed both of them in the face.

Just as people have a right to observe public police interactions, people have a right to record officers’ activities as well.[68] However, both during protests and in everyday interactions, MPD officers interfere with individuals’ right to record police activity by

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[67] *Copeland v. Locke*, 613 F.3d 875, 880 (8th Cir. 2010) (holding that if an officer arrested a person “solely for distracting him from [a] stop through the use of his protected expression, then the arrest was unlawful”); *see also Chestnut v. Wallace*, 947 F.3d 1085, 1090 (8th Cir. 2020); *Walker v. City of Pine Bluff*, 414 F.3d 989, 992–93 (8th Cir. 2005).
[68] *Chestnut*, 947 F.3d at 1090.

arresting them, destroying their recording equipment, and retaliating with force. For example, during a May 2020 protest, officers approached a man who was standing on the side of a roadway on a bridge, recording police. One officer tried to grab his phone and screamed at him to move. Another officer pepper sprayed the man's face. When the man refused to leave, an officer grabbed his phone and threw it off the bridge.

MPD officers also retaliate against people who record them outside of the protest context, during regular stops and calls for service. In one 2019 case, two officers responded to a call about a domestic disturbance. As the officers were removing a man from the home, a bystander tried to record the police activity. In response, one of the officers pepper sprayed him.

MPD policy makes clear that people have a right to record police activities. Officers seem to know this: They frequently tell people they are free to record. In practice, however, they often use force against or arrest people who record. For instance, in January 2017, a man told two officers that he intended to record them. One officer told him that he could record all he wanted, but that he had to move across the street. When the man began to move away, the other officer followed him, told him he was under arrest, and threw him onto the ground. As that officer held the man's face down on the pavement, the first officer confiscated his phone.

5. MPD Inadequately Protects First Amendment Rights

MPD officers' First Amendment violations are the predictable consequence of MPD's broader failure to protect speech and guard against unlawful retaliation.

To start, MPD's policies and training on First Amendment issues have been seriously deficient. When widespread protests began in May 2020, MPD's only policy on the issue was its civil disturbance policy, which was four sentences long and had not been updated since 2007. After the protests, MPD made a series of positive changes to their policies, including adding limitations on the use of less-lethal projectiles and chemical agents and additional requirements for reporting and reviewing uses of force during protests. Nevertheless, MPD's policies still fail to clarify basic First Amendment requirements, including details about the scope of First Amendment protections and how to handle media at protests. Likewise, MPD's trainings on police response to protests refer broadly to First Amendment rights without sufficiently explaining what those rights include.

MPD also fails to hold officers accountable for violating First Amendment rights. Despite the repeated police misconduct that we observed at protests between 2016 and the present, MPD has only disciplined officers for their conduct at protests in connection

with five incidents over that seven-year period. Notably, although the reviews in those cases considered issues like the use and reporting of force, they ignored the question of whether officers violated protesters' First Amendment rights.

Moreover, even when officers have seriously injured protesters, supervisors often accept their accounts with little scrutiny, and associated complaints linger for years without resolution. For example, the officer who pushed a peaceful protester and caused a traumatic brain injury falsely claimed that he gave the woman a "slight push" because she "walked towards [him] with her right hand up and clinched." Other officers who were present echoed this false account, claiming the woman had refused to comply with commands and advanced on officers. The body-worn camera footage shows this is not true. Both times the officer pushed her, the woman was walking backward, away from the police line, and both times, he gave her a forceful shove. Regardless, the supervisor who reviewed the incident claimed that the officers' accounts "appear[ed] to match" the footage. Nearly two years later, the complaint against the officer remains unresolved. He is still on the force.

We also observed repeated expressions of contempt for First Amendment rights by line officers, supervisors, and members of the SWAT team. For example:

- During protests in May 2020, an officer saw a sergeant indicate a group of protesters yelling at police from behind a fence. The sergeant told an officer, "I'll give you a pack of beer if you hit them with a 40 mm round."
- At a protest in October 2020, a sergeant encouraged officers to hit protesters with their 40 mm rounds "in the junk."
- In 2021, an MPD SWAT team officer assisting at a protest in the neighboring city of Brooklyn Center aimed his 40 mm launcher at protesters from his rooftop position. He joked, "What if I can get 'em?" He then repeatedly pointed his weapon at the peaceful protesters below, apparently for his own entertainment.

These remarks—and the many others like them we identified—show disrespect for First Amendment rights, not mere confusion about what those rights protect. And when supervisors regularly express this attitude, they send a message throughout MPD that protesters are adversaries, and First Amendment rights need not be protected.

* * *

The First Amendment protects the public's right to expose truths and express their views—even when the focus of protected speech is the police themselves.

Safeguarding speech is essential so that "falsehoods may be exposed."[69] In Minneapolis, this principle has special resonance. The day after George Floyd was murdered, MPD issued a press release about it. The press release, entitled "Man Dies After Medical Incident During Police Interaction," stated that officers had handcuffed the man and "noted he appeared to be suffering medical distress." Because a 17-year-old girl filmed that day, the nation learned what really happened.

[69] *Thornhill v. Alabama*, 310 U.S. 88, 95 (1940).

D. The City and MPD Violate the Americans with Disabilities Act in Their Response to People with Behavioral Health Disabilities

Our investigation showed that the City and MPD violate the Americans with Disabilities Act (ADA) by discriminating against people with behavioral health disabilities when providing emergency response services. The ADA prohibits discrimination against people with disabilities, including by excluding them from participation in or denying them the benefits of city services, programs, and activities.[70] People with behavioral health disabilities must be able "to participate in or benefit from" the City's services, programs, and activities to an extent "equal to that afforded others" and that is equally "effective in affording equal opportunity to obtain the same result."[71] The City must make "reasonable modifications" to policies, practices, or procedures, if necessary to avoid discrimination against people with disabilities.[72] Many behavioral health-related calls for service do not require a police response, but MPD responds to the majority of those calls, and that response is often harmful and ineffective. This deprives people with behavioral health disabilities an equal opportunity to benefit from the City's emergency response services.

In December 2021, the City launched a mobile crisis response pilot that provides a behavioral health response in addition to, or instead of, a police response. The program has been a positive development. But it lacks the capacity to promptly respond to calls throughout the City and, as a result, MPD continues to be the primary response to behavioral health calls. The City itself has unanswered questions about whether the program is on track. While a recent report reflected a promising start, Mayor Frey acknowledged the lack of important information about the program's performance.[73]

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[70] 42 U.S.C. § 12132; *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 209 (1998).
[71] 28 C.F.R. § 35.130(b)(1)(ii), (iii).
[72] 28 C.F.R. § 35.130(b)(7); *see also* Title II Technical Assistance Manual § II-3.6100.
[73] In assessing the City's and MPD's compliance with the ADA, we analyzed a variety of forms of evidence the City provided. Aided by experts in forensic and clinical psychiatry, behavioral health services, crisis response, co-response models, and dispatch, we analyzed thousands of records from MPD's computer-aided dispatch and records management systems from 2016 to 2022, as well as reviewed body-worn camera and squad car footage. In addition, we joined ride-alongs with MPD and mobile crisis responders, observed trainings, and reviewed training materials and policies. We interviewed dozens of MPD officers; county emergency medical services (EMS) responders; Minneapolis Emergency Communications Center (MECC) call takers, dispatchers, and supervisors; Behavioral Crisis Response (BCR) responders and supervisors; City and MPD officials and leadership; and people with behavioral health issues who had experienced an MPD response, along with their family members, community members, activists, and others.

1. Behavioral Health Calls Continue to Receive an Unnecessary and Potentially Harmful Law Enforcement Response

Many behavioral health-related calls for service in Minneapolis do not require a law enforcement response. These calls often involve no violence, weapon, or immediate threat of harm. For example, MPD responded to a call from a man who wanted to tell officers stories about his life and had to be advised by officers that "911 was for emergencies," a call about a woman with schizophrenia who believed people were stealing her identity, and a call from a grandmother about her grandson who had depression and was upset due to a family issue. Such calls could be safely resolved with a behavioral health response, such as a mobile crisis team.[74] Other calls may present public safety concerns that may require a joint response involving police and behavioral health responders.

MPD responded to well over one million emergency and non-emergency 911 calls between January 2016 and August 9, 2022. Almost 10% of these calls directly related to a behavioral health issue. For the vast majority, MPD was the primary, if not the sole, responder, mostly due to the unavailability of a behavioral health response. We analyzed a randomly selected sample of certain behavioral health-related 911 calls to which MPD responded. For the vast majority of these calls, the person in need of behavioral health attention was not reported to have a weapon or pose an immediate threat to themselves or others. Only 0.45% of over 100,000 mental health calls resulted in an arrest at the scene, underscoring that the current reliance on police-only responses is unwarranted.

The treatment of people with behavioral health needs stands in stark contrast to the experience of people in need of medical assistance. A person in medical need receives a response from trained Emergency Medical Services (EMS) professionals; due to insufficient mobile crisis team capacity, the person with behavioral health needs typically receives a response from an armed police officer with often inaccurate and ineffective training in behavioral health. We include here just a few examples showing the harmful, and even fatal, results when officers lead the responses to situations involving behavioral health issues.

In one example, MPD responded to check the welfare of an unarmed white man. Notes

[74] A mobile crisis team includes trained behavioral health staff who respond to individuals in need of urgent behavioral health assistance wherever the person is located. The team can resolve the immediate need and connect the person with ongoing behavioral health services as appropriate.

of the call advised that the man was "talking to himself and . . . crawling on sidewalk."[75] A responding officer encountered the man with his pants partially undone, appearing "agitated," and "moving around at a fast pace." As officers spoke to him, the man grew increasingly agitated and tried to move away. There was no indication that he was a threat to officers or others. Nevertheless, an officer told him he was going to "get cuffed up." The officer reported that "to prevent him from leaving," the officer grabbed his arm, put him in a neck restraint, and pinned him to the ground. Officers restrained him face-down in the snow with a knee on his back for several minutes as they waited for EMS, resulting in the man having a bloody nose. EMS sedated him and took him to a hospital. Dispatching a mobile crisis team, instead of MPD, would have been appropriate and could have addressed the man's apparent behavioral health needs while avoiding the use of force.

When MPD officers respond to behavioral health calls, they often fail to use appropriate de-escalation techniques, such as giving the individual extra space and time, speaking slowly and calmly, and actively listening.[76] We identified numerous examples of MPD officers unnecessarily escalating situations and in many cases using avoidable force against people with behavioral health disabilities.

One officer responded to a report in 2016 of a naked Latino man walking down a quiet residential street using a long branch as a walking stick. The officer drove next to the man in his squad car, asking him where he was going. The man ignored the officer but appeared disoriented and calm. The officer exited his squad car, grabbed the man's wrist, pulled him towards the vehicle, and subdued him with a neck restraint. Another officer arrived, and they pinned the man to the pavement for over 13 minutes. EMS sedated him, and he later had to be intubated.

In a 2017 incident, officers used a taser on an unarmed white man experiencing behavioral health issues. The man was shirtless, shoeless, and wearing pajama pants in his front yard. Neighbors told officers that he was having a mental health episode, had bipolar disorder, and was unmedicated. Although agitated, at times pacing around his yard and yelling, the man was compliant with officer orders to sit on his front steps. At a quiet moment during the encounter—the man was seated, unarmed, and not

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[75] Some MPD sources use all uppercase letters. For readability, we use lowercase letters when quoting these sources.

[76] The ADA requires that a public entity must "take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others." 28 C.F.R. § 35.160(a)(1). When an individual is experiencing a behavioral health issue and officers do not use well-known tactics for communicating with that individual, the law enforcement agency may not have taken appropriate steps to ensure that communications with individuals with disabilities "are as effective as communications with others."

posing a threat to anyone—an officer fired his taser without warning. After the man stood up in pain, he fell to the ground, officers handcuffed him, and EMS eventually sedated him. The unnecessary police-led response escalated the situation, and a behavioral health-led response may have avoided the use of force entirely.

A behavioral health-informed response is uniquely important when responding to children. In a 2020 encounter, MECC dispatched MPD and EMS to a call that an 11-year-old Black girl had taken an unknown kind and quantity of pills. The child's brother told responders that the girl "possibly took like 6 or 7 pills, Tylenol, aspirin, ibuprofen, that type of combination." The girl ignored responders when they tried to engage her and continued lying quietly on her bed. After the girl kicked and hit responders when they physically tried to move her, EMS personnel sedated her and MPD officers handcuffed her arms behind her back. An officer suggested, "If we're going to carry her out, might as well handcuff the legs, too." Responders handcuffed her ankles and wrists, carrying her face-down out of the home. A behavioral health-led response may have avoided handcuffing of the child's wrists and ankles, minimizing the trauma suffered and assisting EMS to better manage this child's behavioral health and medical issues. Also noteworthy is that the child received services from qualified medical personnel for her medical need, but from police for her behavioral health issue.

Even if a police presence is appropriate, missed opportunities to bring in an alternative response can have deadly consequences. In one 2018 incident, MPD was dispatched without any behavioral health responders after a man's girlfriend called the non-emergency response line. The man reportedly told his girlfriend that he would kill himself and had sought to buy a gun "a few months ago." Without mentioning that timeframe, dispatchers relayed to MPD that he "was looking to buy a gun." A supervisor directed the officers not to force entry given that the man was alone and not a threat to others, and suggested the officers call the man's girlfriend to try and convince him to voluntarily leave the home. Officers were standing close to the home, however, looking in windows and calling to the man to come out. The man, agitated, then opened the front door holding a knife, yelling, "OK then, let's do this!" He initially advanced on the officers quickly and did not comply with multiple demands to drop the knife. An officer shot and killed the man. A well-coordinated joint response with behavioral health professionals and law enforcement would have been warranted here. Responders could have taken more time to understand and de-escalate the situation, such as by allowing the man to stay inside the home, engaging in dialogue, attempting to gather other information from the girlfriend or other sources, and having officers on standby. Such strategies may have avoided the use of force that ended the man's life.

Not only is a police response unnecessary in many behavioral health-related situations—and harmful for that reason alone[77]—it can increase the stigma associated with behavioral health issues, contribute to distrust of public services, and cause trauma for some individuals.[78] Communities of color in Minneapolis are particularly impacted by unnecessary police encounters. People with serious mental illness in these communities are already less likely than their white counterparts to use mental health services, and they are more likely to report stigma as a reason for not doing so.[79]

One recent survey of Minneapolis residents found that a majority of respondents of color believed that a police response was unhelpful in situations involving a mental health crisis. We reviewed incidents that demonstrated this dynamic. A mother called 911 to report that her adult daughter, a Black woman who had a bipolar disorder, was attempting to hurt herself by lying in the road. Two MPD officers responded. One ran up to the daughter, who was by then calmly walking through a park. The officer exited the squad car and immediately grabbed her arm. The daughter became agitated, saying, "I didn't do nothing illegal, I'm walking through the park like y'all walking through the park," and began yelling. The second officer also grabbed her. She pulled away, and officers put her in a neck restraint. Watching the incident unfold, her mother said, "Don't choke her like that!"

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[77] When dispatched to behavioral and physical health calls, EMS personnel frequently wait outside until MPD arrives on scene to declare the situation "Code 4," meaning under control and safe, before EMS personnel enter the scene and begin to administer services. According to community members and City employees interviewed, this practice is particularly pronounced in North Minneapolis' Fourth Precinct, and we observed this dynamic during our investigation. This practice absorbs MPD resources and places officers at scenes where a police response is not needed and may even be harmful, creating opportunities for the negative outcomes discussed in this section.

[78] *National Guidelines for Behavioral Health Crisis Care: Best Practice Toolkit Executive Summary*, Substance Abuse and Mental Health Services Administration (SAMHSA), 8–10, https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-services-executive-summary-02242020.pdf [https://perma.cc/4QNM-565A].

[79] *Racial/Ethnic Differences in Mental Health Service Use Among Adults and Adolescents (2015-2019)*, Center for Behavioral Health Statistics and Quality, SAMHSA, Tables 5.2, 5.7, pages 36, 41, https://www.samhsa.gov/data/sites/default/files/reports/rpt35324/2021NSDUHMHChartbook102221B.pdf [https://perma.cc/J89N-WY2D].

In December 2021, the City launched the mobile Behavioral Crisis Response (BCR) pilot. Mayor Frey described it as “a huge day for the City of Minneapolis, and a move toward safety beyond policing, recognizing that not every 911 call requires response from an officer with a gun.” BCR is a 911 first-responder entity, like MPD, EMS, and Fire. MECC call takers dispatch BCR units when available. Mental health practitioners staff two mobile units dispatched to calls involving certain behavioral health issues during set hours. Several months into the pilot, the BCR team expanded its hours, but significant coverage gaps persist. After BCR’s first year of service, the City reported it was either the primary or secondary response to thousands of incidents, but its limited capacity still leaves MPD as the primary responder to behavioral health calls. While the service is designed to be City-wide, launched with only two vans, BCR has been unable to provide timely City-wide responses. The two vans BCR has had access to have also experienced frequent mechanical problems, significantly lengthening response times across the City. While the City has had plans for some time to add vehicles to the fleet, BCR currently remains unable to respond to large numbers of calls for which it is needed. And because BCR does not track response times, improvements will be difficult to measure without improved data collection and analysis. As recently as March 2023, BCR was still not able to provide 24/7 coverage due to unfilled overnight weekend shifts. MPD continues to handle a large volume of behavioral health calls.

Case Study: A Compassionate Alternative Response

During a ride-along with a BCR team in November 2022, we observed the BCR team provide timely, compassionate, and impactful services to a person in crisis. Responders were dispatched to a pharmacy to assist a patient, a Black woman experiencing hallucinations of bugs eating her ears. She had sprayed Raid insect spray into her ears, causing injuries. The BCR responders calmly and caringly engaged the woman in conversation. Recognizing the need for urgent medical care to treat her wounds, BCR responders encouraged her to allow them to transport her to the hospital. The woman resisted and expressed fear of involuntary commitment for mental health issues, but BCR responders continued to patiently engage with her, discussing the situation with her at a relaxed pace. She eventually consented to be seen at the hospital. BCR transported her in their van, offering her food on the way. BCR entered through an ambulance bay entrance and left the woman with emergency room nursing staff.

When it is able to respond, the BCR program can provide a compassionate alternative to a law enforcement response.

In part due to its capacity limitations, BCR has also been unable to regularly connect community members to ongoing support services that would help prevent future crises. Likewise, coordination of BCR, MECC, or MPD with the recently launched 988 Suicide and Crisis Lifeline[80] has been minimal. These challenges have compromised BCR's ability to achieve its emergency crisis response mission and continued the City's reliance upon MPD for many first responses.

2. MECC Contributes to Unnecessary Police Responses to Calls Involving Behavioral Health Issues

The City's failure to provide a meaningful police alternative also stems from issues with dispatch. In 2021 alone, MECC received nearly 18,000 behavioral health calls. MECC's operations therefore have a substantial impact on how—and by whom—behavioral health calls are handled.

MECC lacks the ability to adequately assess and appropriately dispatch behavioral health-related calls for service. New training is limited, particularly around behavioral health diagnoses, and response protocols remain unclear. MECC staff themselves identified the need for clarity about the "gray areas" of call taking and dispatching in response to behavioral health calls. One dispatcher told us they are "trained to err on the side of caution and to oversend" police, and another feared personal liability for improperly dispatching BCR. And, as with MPD officers, the concept of excited delirium persists at MECC among some staff. Finally, MECC's quality assurance program does not review behavioral health calls, further undermining the City's ability to ensure appropriate response to behavioral health calls.

Even when a call is identified as requiring a behavioral health-led response, certain MECC processes result in MPD responding anyway. Dispatchers reported that many calls appropriate for BCR are diverted to MPD if BCR has not responded in as little as 10 minutes. This is true even for situations in which callers specifically said not to send police.

Some of the most frequent callers for service (such as shelters for people in the unhoused community, short-term mental health stabilization, acute and long-term care facilities, and walk-in behavioral support clinics), receive police responses for calls known at dispatch to involve behavioral health issues. That service providers designed to serve people with behavioral health disabilities are frequently calling for MPD

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[80] The 988 Suicide and Crisis Lifeline "is a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week." *See* 988 Suicide & Crisis Lifeline, SAMHSA, https://988lifeline.org.

assistance—a teenager living at one care facility had 11 MPD contacts in just over 3 months, for example, all for calls relating to attempted suicide or self-harm—presents an opportunity for the City to set expectations regarding the unique skillsets and roles of MPD and BCR. MECC must ensure training, call scripts, and protocols are updated to dispatch BCR where appropriate.

3. Training on Behavioral Health Issues Does Not Equip Officers to Respond Appropriately

Our investigation showed that a law enforcement-led response can cause real harm in the form of trauma, injury, and death to people experiencing behavioral health issues, as well as other impacts. These harms may be avoided by dispatching behavioral health responders rather than law enforcement where appropriate, and they can be mitigated by sending behavioral health responders with police where a law enforcement response is needed, as well as by appropriate training of law enforcement officers. Officers will inevitably come into contact with people experiencing behavioral health issues and, as a result, they must be prepared to interact appropriately with them. MPD's training in this area, however, is at best inadequate; at worst, it is factually inaccurate and biased. While we observed encounters in which some officers displayed compassion and kindness for people with behavioral health needs, the training may contribute to prejudice among MPD officers against people with behavioral health issues.

> **"If we don't deal with the crazy naked guy, who will? It's not the old days. Can't lasso them. Best way to deal with them is to put them on the ground and handcuff them. And police are the only ones who are justified in doing that . . . I don't know a better way."**
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> ***– MPD Officer During Ride-Along with DOJ Investigator, July 2021***

Since at least 2017, all MPD officers have received basic Crisis Intervention Team (CIT) training, but the training program suffers from serious flaws. Training materials contained concerning messaging, including inaccurate medical information. One MPD crisis intervention trainer told trainees that responding to behavioral health calls "could be dangerous because they think you're coming to rob them." Likewise, training materials provided by outside consultants on behavioral issues among youth were problematic: a slide on autism stated that a child with the condition "will power struggle with you to the death." Also unclear are what quality standards, competency requirements, or monitoring apply to the curriculum or trainers as part of MPD's CIT and other behavioral health-related trainings. Our investigation showed that current training is not sufficient to educate officers about behavioral health issues, with officers underestimating the need for training at all. One officer told us he did not need training

to know someone is “off their rocker.” And despite a laudable City directive to stop training officers on excited delirium, training given to MPD officers referred to “severe agitation with confusion (delirium)” in an obvious attempt to skirt the City directive. Some officers continue to mention “excited delirium” in call comments and reports.[81] This reflects the importance of confirming the quality and accuracy of training before it is delivered and the need for proper oversight following trainings.

4. The City and MPD Can Make Reasonable Modifications to Avoid Discrimination Against People with Behavioral Health Disabilities

The ADA requires public entities to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.”[82] Whether a particular modification is reasonable and not a fundamental alteration includes a fact-based assessment of a particular jurisdiction.

Expand and Improve BCR as an Alternative Response. BCR is an important step toward creating a meaningful alternative to police for calls involving behavioral health issues. Resources in sufficient quality and quantity are critical to its ability to provide appropriate services and prevent unnecessary police responses. Increased collaboration and coordination with other City and county programs can further enhance BCR’s efficacy. Deeper connection between BCR and other first-responders and providers, particularly COPE, as well as the recently-launched 988 Suicide and Crisis Lifeline, is essential. Minneapolis’ network of mental health treatment and support resources is largely untapped given the City’s current siloed approach.

Modify MECC to Dispatch an Alternative Response Where Appropriate. MECC must also ensure accurate identification of and responses to behavioral health calls and engage in robust quality assurance. City policies must better delineate the responsibilities of MPD, BCR, and other first responders in behavioral health calls, including joint responses involving more than one agency, so that MECC can accurately

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[81] In light of the well-documented connection of the use of excited delirium to racial bias, the persistent presence of this concept is troubling. *See* Brooks Myrick Walsh, Isaac K. Agboola, Edouard Coupet, Jr., John S. Rozel, Ambrose H. Wong, *Revisiting “Excited Delirium:” Does the Diagnosis Reflect and Promote Racial Bias?* 24(2) *WESTERN JOURNAL OF EMERGENCY MEDICINE* 152–59 (Mar. 2023) (electronically published Jan. 31, 2023).

[82] 28 C.F.R. § 35.130(b)(7). The City need not provide a reasonable modification if the person requiring the modification poses a direct threat to the safety of an officer or others. *See* 28 C.F.R. § 35.139(a). A direct threat is “a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.” 28 C.F.R. § 35.104.

assess calls for service and deploy the right responder(s) in accordance with the unique missions and skillsets of MPD, BCR, EMS, and Fire.

***Ensure Quality and Impact of MPD Behavioral Health Training*.** MPD can make changes to its CIT program to ensure that when calls related to behavioral health do need a police response, appropriately trained officers respond. Training related to behavioral health issues must ensure that when MPD officers respond to situations in which behavioral health issues are present, they do so appropriately. It is critically important that behavioral health-related training for MPD, including cross-training with BCR, be updated, accurate, and impactful.

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Expanding BCR to ensure that the City can provide services tailored to residents with diverse behavioral health needs holds much promise. As Mayor Frey told us, being able "to have someone show up without a gun and with the right skillset" is critical. Coordination and continuous assessment will be essential in this next phase to make sure all people in Minneapolis receive appropriate responses when they call for help.

CONTRIBUTING CAUSES OF VIOLATIONS

A. MPD's Accountability System Contributes to Legal Violations

Effective police accountability requires timely, thorough, and objective investigations into alleged officer misconduct, as well as meaningful discipline. People deserve to have their misconduct complaint investigated fairly. Community trust in law enforcement suffers when officer misconduct is tolerated.

MPD's accountability system is fundamentally flawed.[83] It consistently fails at its core purpose: to find, address, and prevent officer misconduct. Instead of a clear, straightforward accountability system, MPD's system is an opaque maze, with multiple dead ends where meritorious complaints are dismissed without investigation and often for no discernable reason. Significant allegations in complaints are mischaracterized or ignored. Officers who commit serious misconduct are diverted to coaching or retraining, and sometimes, the coaching or retraining never happens. If MPD does investigate a complaint, obvious misconduct is often overlooked or excused. By the end, the investigation often has taken so long that the complaint becomes stale, leaving problematic officers to continue committing misconduct for years.

To investigate MPD's accountability system, we conducted dozens of interviews of City leaders, union officials, Office of Police Conduct Review (OPCR) staff, MPD command, civilian police conduct review panelists, and community members. We studied a random sample of over 400 complaints that the OPCR closed after 2016. We focused on closed cases to account for the inordinate delays in processing complaints, particularly those placed into investigation. Indeed, of OPCR cases opened after 2016 and placed into investigation, 53.1% remain unresolved for at least one year, and 26.1% remain unresolved for at least two years. To ensure we could evaluate complaints from beginning to end, we assessed MPD's performance when resolving cases during our review period, regardless of when the alleged misconduct occurred. Our case review

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[83] On December 14, 2022, the City amended provisions of the Minneapolis Code of Ordinances that relate to police conduct oversight, effective April 2023. Pursuant to these amendments, MPD and the Minneapolis Department of Civil Rights adopted a revised Police Misconduct Complaint Process Manual on April 20, 2023, that will govern how complaints of police misconduct will be allocated, investigated, and processed by the two departments. *See* Minneapolis Code of Ordinances § 172.30 (amended 12/14/2022); Ordinance No. 2022-058, https://mcclibraryfunctions.azurewebsites.us/api/ordinanceDownload/11490/1190830/pdf [https://perma.cc/53BN-HGZ9]. The revised manual identifies a transitional period to effectuate these new policies that concludes 120 days after the effective date of a settlement agreement between the City and the Minnesota Department of Human Rights. As a result, this report details our review of the City's accountability systems prior to the enactment of ordinance amendments in late 2022, and revised policies in April 2023.

included a random sample of approximately 80 OPCR complaints that were placed into investigation, as well as complaints dismissed or diverted on various grounds (for example, no basis, no jurisdiction, failing to state a claim, or referred to coaching). We also reviewed OPCR complaint files related to conduct we learned of through community outreach, news reports, interviews, and other documents.[84]

MPD officers' misconduct costs the City dearly. Between 2018 and 2022, the City paid out $61,502,925 to settle claims of police misconduct. Apart from the $47 million in settlements for the deaths of Justine Ruszczyk and George Floyd, the City paid $14,502,925 for 69 claims or lawsuits from 2018 through 2022. In April 2023, the City approved additional settlements of $7.5 million and $1.375 million for misconduct related to arrests by Derek Chauvin occurring in 2017. In May 2023, the City approved a settlement of $700,000 related to the allegedly unlawful detention of three children while their father was killed during a police shooting. Sometimes, MPD pays for the repeated misconduct of certain officers. For instance, MPD paid $344,000 to settle claims related to one officer's uses of force over a 12-year MPD career. This includes settlements of $140,000, $82,000, and $62,500 for the officer allegedly choking an 18-year-old developmentally disabled student unconscious, punching a woman in the face and knocking her unconscious, and beating a man unconscious outside of a bar.

Our review shows that MPD frequently fails to address police misconduct, which allows officers' serious violations of people's rights to go unpunished. MPD's flawed accountability system contributes to the unconstitutional and unlawful patterns or practices we found.

[84] As noted above, we evaluated OPCR's handling of misconduct complaints for those complaints where the resolution fell within our review period (beginning in 2016). It is not possible to fully assess how a complaint is processed and investigated until the complaint investigation is completed and the officer has exhausted appeals and other rights; as a result, our sample includes cases that were filed before 2016. Nevertheless, the older complaints suffer from the same deficiencies that we highlight regarding the more recent complaints in our sample, and these deficiencies are contributing causes of the violations of federal law.

Case Study: "Far Outside the Norm"

In 2014, an MPD officer responded to a report that a man had committed retail theft. The OPCR investigator noted that store surveillance video showed the officer punching the man "multiple times in the face with a closed fist while [the man] is handcuffed behind his back." The force review supervisor completed the force review without viewing the surveillance footage that would have revealed the misconduct, and MPD did not investigate further at the time.

The officer continued working and continued using unreasonable force. He had eight uses of force requiring a supervisory force review from March 31, 2016, to May 30, 2016. In one of those incidents, the officer kicked a man in the face after the man was already on his hands and knees. The man suffered a traumatic brain injury and a displaced nasal bone. MPD settled with the man for $150,000, and the officer was convicted of assault.

MPD's 2016 internal review of the officer's force showed that from February 2012 to June 2016, he had 68 force incidents, a number that OPCR noted was "far outside the norm for an MPD officer."

1. The Complexity of MPD's Accountability System Discourages Complaints and Prompts Their Dismissals

Minneapolis has a combined civilian and MPD internal accountability system to review and process allegations of police misconduct. This consists of MPD Internal Affairs (IA) and OPCR. OPCR handled the overwhelming majority of complaints during our review period. IA may have handled a complaint alone or jointly with OPCR.[85]

During our review period, the Commander of IA and Director of OPCR (collectively the Joint Supervisors) together processed every complaint of police misconduct within OPCR's subject matter jurisdiction.[86] The Joint Supervisors could decide to dismiss a

[85] For simplicity, we use "MPD" to refer collectively to actions and investigations of MPD Internal Affairs, the Joint Supervisors, and OPCR.

[86] To fall within OPCR's jurisdiction before the December 14, 2022, amendment, a complaint must have been filed within 270 days of the misconduct and allege excessive use of force; inappropriate language or attitude; harassment; discrimination in the provision of police services; theft; failure to provide adequate or timely police protection; retaliation; or criminal misconduct. Minneapolis Code of Ordinances § 172.20

complaint on the merits (referred to as “no basis”), for lack of jurisdiction, or for failure to state a claim, among other reasons. The Joint Supervisors could also refer it for coaching of the officer, or for formal investigation. After a complaint was investigated, the Joint Supervisors decided whether to dismiss it on the merits or refer it for review by a panel of MPD and civilian panelists for a merit or no-merit recommendation to the Chief of Police.

MPD’s accountability system has been needlessly complex. A complaint traveled through numerous steps before the MPD Chief of Police could issue a final decision and potential discipline. We found several opportunities to dismiss or divert a complaint before it reached the MPD Chief. During our investigation, MPD produced an eight-page flow chart that illustrates the number of steps, decision points, and mandatory delays built into the accountability process.

In one case we reviewed, an MPD investigator discouraged a man from pursuing a complaint based on the complexity of the system itself. The man filed a complaint in 2013 alleging that he was in an altercation at a bar and was escorted out. He stated that he was compliant and walking away from bar security when an MPD officer “reached around his shoulder and sprayed him in the eyes with pepper spray.” When we spoke to the man, he said the MPD sergeant assigned to investigate the complaint had said the process would take a lot of time, he would have to show up in court, and there would likely not be a consequence for the officer. In March 2016, OPCR dismissed the complaint as “Failure to Cooperate.” The man told us he would have pursued the matter had he believed the officer would face consequences.

a. MPD Wrongfully Dismisses Complaints at Intake

By City ordinance, MPD must assess and review every OPCR complaint at intake. Before the recent amendments to Minneapolis law, complaints could only be dismissed during intake if the complaint failed to allege a violation on its face or for lack of jurisdiction. Although MPD could refer lower-level complaints (for example, improper attire/appearance, failure to properly inspect vehicle) for coaching, the law required that “[a]ll other qualifying complaints shall be formally investigated.”

Nevertheless, over the time period of our review, MPD investigated only 13.6% of the non-duplicate complaints OPCR received.[87] At intake, MPD dismissed approximately 65.7% of misconduct complaints, which included 19.8% of the complaints on the merits

(repealed per 12/14/22 amendment). IA handled police misconduct complaints filed outside of the 270-day window and complaints against civilian employees.

[87] Nearly 23% of all OPCR complaints were dismissed as duplicates.

without any investigation,[88] and referred 18.3% of the complaints for coaching in lieu of a formal investigation.

A dismissal at intake can occur even when the misconduct is captured on video. For example, MPD dismissed as "no basis" a 2019 complaint involving clear policy violations captured on body-worn camera. The complainant saw officers breaking up a party at her neighbor's home. She stated in her complaint that officers used profanity and one officer repeatedly shoved a young person in the chest. Body-worn camera footage confirms her account. An officer can be seen pushing a young person down the street. Another officer stated, "Pull your pants up boy . . . it's disrespectful to show your ass . . . you know what that actually means in prison." That same officer used profanity as well, saying "[F]ucking move, get the fuck out, right fuck me, right get the fuck out of here." The dismissal does not mention the shoving or the profanity, which are both policy violations.

We learned of an instance where MPD dismissed a complaint as "no basis" and suggested to the complainant that there was an investigation when there was none. In 2018, MPD dismissed a man's complaint of unlawful detention. He alleged that officers detained him for six hours, took his money, took his motorcycle, strip-searched him "more than one time," and took DNA swabs. Finding nothing, the officers did not arrest him. The man said in his complaint that he "felt violated." The OPCR file does not reflect any investigation or provide an explanation for the dismissal. Nevertheless, MPD advised the complainant that "an appropriate investigation" took place.

Even when an officer's misconduct potentially injures someone, MPD may not investigate. When an unarmed man said he was planning to file a complaint, an MPD officer pushed him backward so hard his head struck the sidewalk. The officer searched and handcuffed the man, who remained compliant and seated as he waited for EMS to respond. MPD did not investigate whether the use of force was retaliatory or excessive. Rather, MPD referred the officer for non-disciplinary training.

MPD even declined to investigate a May 2018 case of serious force referred to it by the Minneapolis City Attorney. The referral included a video taken by a City worker that shows an MPD officer placing his knee and full body weight on an arrestee's head and

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[88] MPD also dismissed complaints at intake for lack of jurisdiction, failure to state a claim, and failure to cooperate, as well as complaints that were deemed to be duplicates or withdrawn. Under the Complaint Process Manual in place at the time, misconduct complaints could also be dismissed any time when the focus officer stopped working for MPD, or when no MPD policy covered the alleged misconduct. OPCR & MPD, Complaint Process Manual, 2016, at Section IV, https://www2.minneapolismn.gov/media/content-assets/www2-documents/departments/OPCR-Complaint-Process-Manual-(PDF).pdf [https://perma.cc/S9A5-WDVH].

neck area. The video also depicts a concerned community member walking up to the officers and stating, “[H]ey sir, treat him with respect.” MPD received the complaint and video on July 5, 2018. Either due to MPD failing to timely refer the complaint to OPCR or OPCR failing to timely log in the complaint, MPD erroneously dismissed the complaint in October 2019 for “lack of jurisdiction.”

b. MPD Misclassifies Complaints and Ignores Explicit Misconduct Allegations

MPD frequently misclassifies complaints and fails to identify obvious misconduct that should trigger an investigation. This tends to occur when MPD identifies only a subset of a complainant’s allegations for investigation or substitutes its own allegations for the complainant’s, thereby distorting the complaint. The result is that the specific allegations that most troubled the complainant, often involving severe misconduct, are dismissed without the complainant’s knowledge. Indeed, MPD does not document any notice to complainants of what allegations will proceed through the intake process.

In one incident, a woman alleged that two officers failed to take action against a dangerous driver, but MPD ignored her allegations. The woman called MPD about “a man with a smashed car, broken headlights, front bumper missing, hood bent blocking visibility from windshield, and smoke coming from the engine.” She said that officers did not appear to conduct a sobriety test, but instead told the man to move his car out of the street. When he did so, he drove it into a parked car. The officers then let the man drive away. She wrote that the officers’ actions made her “fear for my safety and the safety of others.” The form that documents coaching referrals has a space for “Complainant’s Description of Employee’s Action,” and the form identifies a violation of MPD’s body-worn camera policy. The form is silent about the officers’ dereliction of duty.

At times, MPD bypasses the allegations that seem most upsetting to the complainant. For example, in 2020, after a Black woman called 911 seeking help for her white partner, who was experiencing a mental health crisis, officers forced entry into the house, arrested the Black woman on suspicion of domestic abuse, and transported the white woman for a mental health examination. Officers held the Black woman overnight, even after the white woman (who had been holding a butcher knife when officers arrived), subsequently admitted to an officer on scene that she was the physical aggressor. When the Black woman later filed a complaint alleging discrimination and unlawful detention, the City and MPD did not process, let alone investigate, her allegations of discriminatory policing and unlawful detention. Instead, eight months later, it was handled as relating only to body camera usage and “professional policing,” and the officers were referred for coaching.

As another example, a different Black woman alleged in 2019 that she and her fiancé experienced an unlawful search, discriminatory policing, and use of excessive force. She alleged that MPD officers came to her home to investigate domestic violence, which she denied. She claimed they beat on her door, used profanity, entered her home without consent, and drew their firearms and tasers. They then pushed her fiancé into a wall, handcuffed him, and conducted a warrantless search of her home without permission while her three-year-old child watched. Body-worn camera footage confirms her account, including an officer shouting "open the fucking door" and "I will kick this fucking door in." The woman sued, and a federal court held that the officers were not entitled to qualified immunity, granted plaintiff's motion for summary judgment, and found the officers liable for an unlawful search. The court noted that, "This was a highly charged situation, due mainly to the Officers' aggressive manner . . . . If anything, the Plaintiffs were the ones who remained as calm as possible throughout the interaction with the Officers escalating the situation."[89]

Despite the unlawful and degrading treatment of the family, MPD did not address the allegations of an unlawful search. Instead, MPD focused only on whether the officers violated MPD policy by failing to completely investigate potential domestic abuse, and whether one officer engaged in unprofessional policing. After a preliminary investigation, MPD found no violation of the MPD domestic abuse policy and referred one officer for coaching for use of profanity.

c. MPD Diverts Complaints Involving Serious Misconduct for Coaching, and the Coaching May Never Happen

MPD has used coaching as a non-disciplinary corrective action tool to address low-level misconduct. Low-level misconduct includes infractions such as improper attire or appearance, and failure to properly inspect a vehicle. Most coaching referrals occur at intake. At that point, the officer's supervisor would investigate the alleged misconduct, decide whether the officer violated MPD policy, and provide coaching. Fewer than one in four OPCR complaints referred for coaching at intake actually resulted in coaching.

We found that MPD refers for coaching many allegations that are far from "low-level." For instance, MPD referred for coaching a 2019 complaint that alleged an officer smacked, kicked, and used a taser on a teen accused of shoplifting. The video showed egregious misconduct: The officer failed to de-escalate, used excessive force, called the teen a "motherfucker," conducted a custodial interrogation without *Miranda* warnings, and questioned him after he asked to speak with his mother. The complaint file does not indicate whether the officer's supervisor investigated the incident or coached the officer.

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[89] *Cotten v. Miller*, No. 20-1588 (JRT/JFD), 2022 U.S. Dist. LEXIS 139360 at 5–6 (D. Minn. Aug. 5, 2022).

MPD dismissed the case one year later with the designation "Reckoning Period Expired."[90]

In another example, MPD improperly referred an officer for coaching after he detained a group of people at a Starbucks about a missing $5 bill. A customer told the MPD officer that he dropped the money and an unidentified youth picked it up. The officer then confronted a girl, who said she did not have the money and that the customer had been sexually harassing her. The officer detained eight other people (many of them minors) and arrested the girl, even though someone had offered to reimburse the customer. A man used his phone to photograph the officer's badge number, and the officer knocked the phone to the ground, breaking it. The officer released the girl after a bystander gave $5 to the customer. At intake, MPD referred the complaint for coaching.

There appears to be little follow-up to ensure that recommended coaching ever happens. In one case, an investigation revealed that an MPD sergeant used her personal cell phone to communicate with a sexual assault survivor (a policy violation) and inadvertently sent a picture of a partially unclothed man. The survivor filed a complaint, and the sergeant was referred for coaching. There is no indication that the coaching occurred, and MPD dismissed the complaint four years later with a designation of "Reckoning Period Expired."

We also found inexplicable delays in follow-through when officers are recommended for coaching. According to OPCR staff, the coaching process is expected to be completed within 45 days of the referral. However, we reviewed case files where coaching documents were not completed for up to almost two years after the OPCR complaint was filed.

2. MPD Fails to Conduct Thorough, Timely, and Fair Misconduct Investigations

When MPD does investigate a complaint, the investigations often skip key investigative steps and are significantly delayed. Complaints languish for no legitimate reason, sometimes for years. Under OPCR policy, investigators delay interviewing involved officers, if they interview officers at all. Open investigations are abruptly closed and dismissed with designations of "Reckoning Period Expired," "Failure to Cooperate," and "No Basis." Case files often do not contain documentation explaining the basis for these

[90] MPD uses the designation "Reckoning Period Expired" to dismiss complaints for dubious reasons. Reckoning periods pertain to union grievances, which have nothing to do with complaint intake and investigation. MPD told us that the term is sometimes mistakenly used to mean "lack of jurisdiction." In many cases, however, "Reckoning Period Expired" appears to be a tool to close older cases inappropriately.

dismissals, which sometimes appear to reflect the length of the delay itself rather than a decision on the merits.

Investigations of MPD officer misconduct—even serious misconduct—are inexcusably slow. We reviewed the OPCR database to determine how long complaints opened and placed into investigation remain open. We found significant delays:

- 92.2% of cases remained unresolved at least 90 days
- 87.7% of cases remained unresolved at least 120 days
- 78.5% of cases remained unresolved at least 180 days
- 53.1% of cases remained unresolved at least 1 year
- 26.1% of cases remained unresolved at least 2 years

Lengthy delays undermine efforts to hold officers accountable for misconduct. A commander told us that "discipline takes way too long. . . . That is a huge problem here." A union leader pointed out that lengthy delays in imposing discipline benefit the officer, who can argue that the misconduct couldn't have been that serious if the department waited so long to act.

We found several files in which it appears there was no investigation at all. For instance, in 2019, MPD dismissed a timely two-year-old complaint that alleged an officer used excessive force by shoving and pepper spraying a person who was retreating. The investigator never interviewed the complainant, witnesses, or the officer. Nevertheless, MPD closed it as "Reckoning Period Expired"—an improper basis for dismissing a timely complaint.

If there is an investigation, it often omits obvious and essential steps. For instance, MPD dismissed a timely complaint that an unidentified officer used excessive force at a barbecue. One witness saw an officer kick a compliant man in the back of the leg, drop him to the ground, and knee the man's spine, and saw another officer kick dirt toward the man's face. Another witness reported that officers kicked the man in the gut and shoved his face in the dirt. The investigator did not interview any of the eight officers who were at the scene. Instead, the investigator recommended dismissal because "this case has passed the reckoning period during which any potential action could be taken against any of the involved officers." MPD dismissed the complaint on the merits over two years after it was filed.

We also found investigations in which the investigator's conclusion bore little resemblance to what actually occurred. In 2017, an MPD officer threw an intoxicated woman to the sidewalk for jaywalking. Video footage shows the officer after he exited his vehicle and followed the woman down a busy sidewalk after she had crossed

against the light. The officer grabbed her arms from behind and stated, “Stop! You’re under arrest.” She turned toward him and said, “Huh?” The officer replied, “You play stupid games, you get stupid prizes,” as he pulled her arms behind her back. She said, “What do you mean?” while turning toward him. The officer then yelled “Stop,” and threw her down, slamming her face into the curb.

The investigator never interviewed the officer. Nevertheless, he concluded that the woman attempted to evade the officer by “speeding up,” and resisted the officer by saying, “No.” None of that is captured on the body-worn camera footage. MPD dismissed the complaint and referred the officer for non-disciplinary training. In the woman’s federal lawsuit, the court denied the officer qualified immunity. The court concluded that a reasonable jury could find that the woman was not attempting to flee or resisting arrest, but confused and perhaps trying to pull away from someone she thought was attacking her from behind.[91]

Investigators also tend to draw inferences in favor of officers that the evidence does not support. As discussed on page 13, two officers responded to a home security system false alarm. While one officer went to the front door, the second officer scaled a six-foot privacy fence and shot the resident’s two dogs. The dogs’ owner sued, and the United States Court of Appeals for the Eighth Circuit affirmed both the district court’s refusal to grant qualified immunity to the officer and the district court’s denial of defendant’s motion to dismiss plaintiff’s unlawful seizure claim. The appellate court concluded that the video evidence was not entirely inconsistent with the complaint, which described the first dog as walking “toward [the officer] wagging his tail in a friendly manner to greet [him]” just before he was shot, and the second dog as presenting himself in a “non-threatening manner.”[92]

The investigator saw things differently. Without interviewing the officers, the investigator agreed with the officer’s threat assessment. The investigator wrote, “[B]oth dogs ran towards him. The first dog growled at him. Growling is an indicator a dog may bite.” The body-worn camera footage had no sound when the officer shot the first dog, and there is no indication of the second dog growling. MPD referred the shooting officer for non-disciplinary training and paid $150,000 to settle the lawsuit.

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[91] *Gaines v. City of Minneapolis*, No. 18-838, 2019 U.S. Dist. LEXIS 221596, at *8 (D. Minn. Dec. 26, 2019).
[92] *LeMay v. Mays*, 18 F.4th 283, 286 (8th Cir. 2021).

3. MPD Fails to Adequately Discipline Police Misconduct

After investigation, the Joint Supervisors could dismiss complaints or approve them to be presented to a police conduct review panel, a group of civilian and sworn panelists who make recommendations to the Chief of Police on whether a complaint has merit. Between 2015 and 2020, approximately 37.3% of complaints originally referred for investigation were ultimately presented to a police conduct review panel.

Discipline for MPD officer misconduct is rare. Between 2016 and 2021, approximately 2.9% of non-duplicate OPCR complaints resulted in a letter of reprimand, suspension, demotion, or termination. When limited to non-duplicate complaints that OPCR deemed to state a claim within its jurisdiction, this figure is approximately 4.2%.

Even when officers admit policy violations, they may not be held accountable. For example, someone turned in a teenager's lost wallet at an MPD precinct front desk. When the teen's mother came to retrieve the wallet, it was gone. During an MPD investigation, the desk officer admitted that he had failed to inventory and secure the wallet. Nevertheless, MPD dismissed the complaint as "no basis," and never presented the investigation to a police conduct review panel. Even though MPD knew the name of the desk sergeant, someone crossed out the name in the investigative file and replaced it with "unknown officer."

Official OPCR Complaint Form: "Unknown Officer"

BADGE/NAME	ALLEGED POLICY VIOLATIONS
Unknown Officer [redacted]	OPCR Ord. § 172.20(8) – Violation of P&P Manual MPD P&P § 10-401 RESPONSIBILITY FOR INVENTORY OF PROPERTY AND EVIDENCE. All MPD employees taking possession of property, whether evidentiary or non-evidentiary, shall place such property in the custody of the Property and Evidence Unit and complete the inventory prior to the end of their shift. The inventory shall include all evidence seized regardless of whether an arrest has been made. This includes sworn employees working off-duty employment.

Our review also showed inconsistent practices with respect to review panel referrals. In some instances, MPD refers only a portion of allegations in a complaint, and frequently without explanation. MPD advised at least one complainant that a review panel found no merit to her complaint, but there is no record in the case file that a panel review ever occurred.

OPCR also does not ensure that panelists collectively review and follow all instructions when deliberating. For example, panelists are instructed during their training that they must consider only evidence contained in the investigative file, and may not base conclusions on information regarding the matter or the persons involved if that

information is not part of the investigative file. Nevertheless, civilian panelists told us that during deliberations, MPD sworn panelists sometimes provide character evaluations of the subject officer, describe the physical location of the event, explain MPD policies at issue, and provide insight on the law enforcement response. This structure provides sworn panelists considerable opportunity to influence a panel's merit or no-merit recommendation.

If the Chief of Police does issue discipline, the discipline may be reversed. Post-discipline arbitration often overturns discipline determinations. As discussed on page 46, in 2019, the former chief terminated two officers for racially derogatory and offensive decoration of a Christmas tree in the Fourth Precinct. In October 2020, the arbitrator vacated one officer's termination, and imposed a 320-hour unpaid suspension. The other officer settled with a medical retirement after filing his grievance.

Case Study: Eleven-Count Indictment

MPD allowed an officer to remain on active-duty status for two years after it learned that he was conducting potentially illegal searches and seizures. In October 2017, the officer pulled a suspected hit-and-run driver out of her vehicle, then improperly searched the vehicle, including opening and reading letters he took from the glovebox and center console. In November 2018, MPD found the officer was "overly aggressive and very disrespectful," conducted an improper search, and failed to document the search.

MPD let the officer continue working, and he continued his unlawful behavior. He accumulated ten complaints over two years, including allegations of harassment, unlawful arrest, unlawful search and seizure, and excessive force. For example, in July 2019, the officer removed a man and his 5-year-old daughter from their vehicle and unlawfully searched it in a store parking lot.

MPD did not suspend the officer until October 2019. The lack of timely adjudication of the 2017 misconduct case permitted the officer to engage in a continuing pattern of constitutional violations resulting in the officer ultimately being charged in a November 2020 11-count federal indictment. In November 2021, the officer was convicted in federal court of abusing his position from September 2017 through October 2019 to obtain controlled substances for his own use by deception and conducting unconstitutional searches and seizures.

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MPD's failure to investigate and address officer misconduct has taken a toll on community trust. People in Minneapolis have reason to question whether making a complaint to MPD was worth the trouble. Our investigation found that all too often it wasn't.

B. MPD's Training Does Not Ensure Effective, Constitutional Policing

Our investigation uncovered systemic deficiencies in MPD's training programs that contribute to the pattern or practice of violations we found. We identified a wide range of problems across MPD's recruit, in-service, and field training programs, including the qualifications of instructors, poor training materials, and chronic understaffing at the Training Division. These problems have plagued MPD for several years, resulting in deficient and inadequate training. For example, officers and supervisors alike told us that they were confused after MPD changed its use of force policy.

We found numerous problems with the way MPD delivers training to officers. Instructors do not have formal training certifications, and MPD has not established criteria for selecting instructors or implemented mechanisms to evaluate how well instructors are performing. We found that many members in the Training Division lacked an understanding of best training practices and did not have strong training skills. Training materials generally failed to succinctly identify learning objectives and state what performance criteria would be used, making it difficult to assess what skills were taught and what students learned. City and MPD leaders were candid in their assessment of MPD's training programs, saying, "[W]e have had a lot of problems."

Our review of MPD's training also revealed an overreliance on using force during encounters. We found that MPD staff favored training on defensive tactics over training on de-escalation options. We also found that MPD provided insufficient opportunities for scenario-based training so officers could practice de-escalating stressful encounters and avoiding the need to use force.

We paid particular attention to MPD's field training program. A new officer's first few months in the field are where they learn agency culture. A top City official told us, "[I]f the first thing an officer hears on the street is 'forget what you just learned, I'll tell you how to be a cop,' . . . that screws up everything we just did."

When MPD recruits graduate from the Academy, they enter five months of field training where they are paired with a Field Training Officer (FTO). The FTO should regularly evaluate the new officer. And MPD should regularly evaluate the performance of the

FTO. FTOs must model MPD values and ethical conduct, and officers with poor skills or poor disciplinary histories should not serve as FTOs. Allowing unsuitable officers to serve as FTOs risks spreading bad tactics and bad attitudes throughout the agency.

MPD officers and training staff expressed a wide variety of concerns about the FTO program. An FTO told us that MPD was using inexperienced FTOs, and "somebody who only has one to two years on the job" should not be an FTO. There is a "lack of consistency between FTOs." One FTO wrote that the biggest challenge of being an FTO is "watch[ing] other FTOs, who suck at their job, train a recruit, who now will pass . . . and suck at their job."

We are aware of officers serving as FTOs even while under investigation for serious misconduct. For example, one officer served as an FTO following a 2016 incident in which he punched a handcuffed man in the face multiple times. While the incident was being investigated, he told us, he was initially suspended without pay, then brought back, first to "limited duty" then to patrol, where he served as an FTO. The officer was later fired, but the termination was overturned after appeal.

We also found incidents where FTOs violated a person's rights while training a new officer. In an October 2017 incident, an FTO and recruit were transporting a 15-year-old teen to a detention center, and the FTO told the teen to remove his shoes so the recruit could search them. The FTO then told the recruit not to return the shoes to make it more difficult for the teen to leave the detention center—an unlawful seizure with no legitimate law enforcement purpose. In a separate incident in 2020, an FTO used a taser to drive stun a man eight times in 30 seconds, not assessing the need for force between each drive stun. *See* pages 17 and 28. Ensuring that FTOs teach right from wrong is essential to ensuring that recruits abide by the policies and values of MPD.

C. MPD Does Not Adequately Supervise Officers

Robust supervision of officers is essential to safe and effective policing. Sergeants—the first-line supervisors in a police agency—play a crucial role. Sergeants serve as mentors, respond in the field to uses of force, and ensure officers comply with the law and policy. Sergeants often set the tone at the precinct level. They brief officers daily, conveying organizational changes, enforcement priorities, and community concerns in their precincts. Supervisors at all levels have a role in enforcing policies and upholding standards among their subordinates; supervisors who fail to do so should be held accountable for misconduct and performance deficiencies.

Supervision at MPD is inadequate for several reasons. First, MPD inadequately trains its supervisors. MPD supervisors, in turn, struggle to understand policy and effectively

communicate changes to officers. Second, MPD does not empower supervisors with tools and data that could reveal problems needing prompt corrective action. Accordingly, supervisors do not perform tasks that other agencies commonly require to improve officer performance. Third, staffing practices at MPD inhibit good supervision. MPD's scheduling system prevents officers from having a consistent supervisor, and its secondary employment (or "off-duty" employment) system undermines supervisory authority.

1. MPD Does Not Prepare Officers to Be Effective Supervisors

MPD does not train supervisors effectively to guide and supervise officers. MPD does not provide adequate specialized police training in how to review a force incident. Several sergeants confirmed to us that they did not receive specialized supervisory training in force review. We heard from a supervisor who felt MPD's training for supervisors did not prepare them to review a force incident or a critical incident. Instead, MPD leaves sergeants to learn on the street how to assess whether force complies with policy.

MPD also does not support supervisors in preparing officers to understand changes in MPD policy. Clear policies that are consistently enforced ensure good order. But MPD policies often confuse officers. They are cumbersome and difficult to navigate. Sometimes, MPD issues new policies and delays training officers on them, leaving it to supervisors to explain the policies to officers. That process often fails in practice. As one MPD commander explained, it is insufficient "to just send an email with a 60-plus page document and expect people to understand it."

2. MPD Does Not Provide Supervisors with the Tools and Data to Prevent, Detect, and Correct Problematic Officer Behavior

Functional police agencies require that first-line supervisors stay informed about the activities of officers and review their reports to ensure compliance with policy and the law. Prompt, accurate reporting of officer activity facilitates effective supervision. Well-run agencies also require sergeants to review reports on stops, searches, and arrests, and to actively supervise officers to guide their enforcement efforts in the field.

However, MPD does not require officers to file a police report for all stops or searches. For many stops, instead of filling out a police report, officers use a CAD form, which lacks useful detail. And an officer need not record the fact or nature of some encounters with the public at all. MPD gives sergeants no specifically expressed role in reviewing investigatory stops or traffic stops unless there is a use of force. Without clear, complete, consistent documentation, supervisors cannot meaningfully review police

actions. The result is that supervisors cannot identify and address trends or problematic conduct, such as unlawful or improper stops, racial profiling, harassment, theft, and sexual misconduct.

MPD can and should collect and use this data consistently for organizational improvement. Data analysis can, for example, help decisionmakers assess whether enforcement strategies are reducing crime, improving public safety, or disparately impacting specific groups. MPD could use search-related data to determine how often a search leads to guns or other contraband. If certain types of searches frequently find nothing criminal, MPD could explore whether to train officers to use different indicia of probable cause to justify a search. But MPD cannot learn in this way when officers are not required to complete police reports for searches unless they result in an arrest. MPD's failure to collect and use data about meaningful police activity seriously impedes effective supervision and prevents MPD from operating as a learning organization.

MPD also underuses body-worn cameras (BWCs) to improve performance. BWCs are a vital supervisory tool. BWC footage may reveal problems that would otherwise go undetected, such as dangerous tactics, policy violations (including failure to activate the BWC), ineffective de-escalation, or mistreatment of community members. Supervisors should routinely check BWC footage of officers they supervise. But MPD does not require patrol supervisors to review BWC footage other than in connection with use of force reports. Instead, a two-person group of analysts conducts random audits of BWC footage for the entire department.[93]

MPD also lacks a functional Early Intervention System (EIS). EIS is a data-based supervision tool to identify as soon as possible those officers who may benefit from supervisory counseling. Once an officer has tripped certain objective indicators, such as a number of complaints or force incidents, an effective EIS should flag the officer so the supervisor can intervene to help the officer. In October 2021, the City received a $500,000 grant to begin developing an EIS, but work was stalled until recently.

3. MPD's Staffing Practices Further Undermine Supervision

Effective supervision requires "unity of command," meaning that the same sergeant consistently supervises the same officers. Unity of command enables sergeants to develop deeper relationships with the officers under their commands. That familiarity

[93] MPD recently began a pilot to require sergeants to check in with officers monthly and view at least three of the officer's videos. This is a positive step.

allows sergeants to more effectively supervise officers. Officers, in turn, can perform better when subject to consistent management styles and expectations.

MPD's staffing practices undermine effective supervision. MPD allows officers to select their work schedules even if it results in a disunity of command. Every four weeks, MPD officers choose the days and shifts they prefer to work. Because officer preferences can vary, officers do not have an assigned sergeant. As one high-ranking supervisor put it, this system is akin to "tak[ing] a bunch of names and throw[ing] them into the air, and whatever it lands, that's who the supervisor is and where they are working." MPD's scheduling approach inhibits sergeants from developing mentoring relationships with officers and makes it more difficult for sergeants to address officer problems.

Off-duty employment also undermines supervision at MPD. Private entities can hire off-duty MPD officers to provide security. In Minneapolis, these jobs can pay significantly more than overtime at MPD—up to $150–175 per hour, according to a commander. MPD allows officers to use its squad cars (and gas), and the officer keeps all the compensation. The City gets nothing. Some patrol officers manage these opportunities, deciding who gets the lucrative work. Because MPD allows patrol officers to control whether supervisors get off-duty employment opportunities, supervisors have ample disincentive to hold officers accountable. MPD's off-duty employment practices impede effective supervision.

D. MPD Wellness Programs Insufficiently Support Officers

Policing, by its nature, can take a toll on the psychological and emotional health of officers. Officers encounter stressful situations, see people in their worst moments, and witness tragic events, including deaths. At times, they face long hours and uncertain conditions. And officers face public criticism about the profession and scrutiny around how they do their jobs. As one MPD sergeant told us, "If officers are sick, community members will suffer." Without appropriate support, these factors can affect behavior, influence decision-making and judgment, and lead to stress and burnout, resulting in officers having a diminished ability to serve the community in the way it deserves.[94] We heard from some officers that they felt inadequately supported.

The importance of practices and programs to support officer resilience and help officers cope with challenging situations has long been recognized. However, resources for

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[94] Deborah L. Spence, Melissa Fox, Gilbert C. Moore, Sarah Estill, and Nazmia E.A. Comrie, Law Enforcement Mental Health and Wellness Act: Report to Congress, U.S. Department of Justice, Community Oriented Policing Services, March 2019, https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf [https://perma.cc/P7EW-NPR2].

officer wellness have not been sufficiently prioritized at MPD. MPD leaders almost universally recognized the need to better prioritize the health and wellness of officers, but they told us the resources currently available to MPD officers—including a peer-to-peer program and a counselor support program accessible through a mobile application—were inadequate.

Failing to provide adequate officer support has real consequences. Just before George Floyd's murder, only 2.1% of sworn employees were on continuous leave. By the end of 2020, that number had grown to 18.6%. Similarly, the City paid out huge sums for MPD workers compensation claims for post-traumatic stress disorder. For injuries claimed in 2020 alone, for example, the City paid over $27 million. Officers need support, and failing to provide it carries enormous psychological, physical, professional, and financial costs.

MPD has taken initial steps to better address this issue. As of May 2023, MPD reported that it had developed a wellness program and a partnership with an external provider of certain psychological and other wellness-related services, in addition to its "Peer Support" network, wellness app, and various debriefings after a traumatic event. It remains unclear, however, to what extent those services are helping officers and affecting the conduct we observed during our investigation. Given the considerable challenges of the last several years in the Minneapolis community—from the COVID-19 pandemic to the widespread trauma and unrest following George Floyd's tragic murder—providing officers with emotional and psychological support is important to ensure that officer stress and fatigue do not contribute to constitutional violations.

RECOMMENDED REMEDIAL MEASURES

We commend the City and MPD for beginning the hard work ahead necessary to make improvements. The remedial measures we recommend below provide a foundation for changes that the City and MPD must make to improve public safety, build the trust of the Minneapolis community, and comply with the Constitution and federal law.

Use of Force

1. **Improve Use of Force Policies, Reporting, and Review Procedures to Minimize the Use of Force.** Revise force policies to emphasize avoiding force and increasing de-escalation and require officers to consider less-intrusive alternatives before employing force. Implement force reporting and review systems to ensure that officers report all uses of force and that MPD conducts timely, thorough force reviews. Ensure that supervisors' performance reviews evaluate the quality of their force reviews.
2. **Improve Use of Force Training.** Provide clear guidance to officers about when it is appropriate to use different force options, including scenario-based training and testing that reinforces these concepts. Stress the importance of the duty to intervene to prevent force and the duty to render medical aid.
3. **Enhance Force-Related Accountability Mechanisms.** Require supervisors to conduct use of force supervisory reviews and identify violations of policy or law. Ensure that supervisors promptly refer evidence indicating misconduct or criminal conduct to the appropriate investigative unit or agency. Take appropriate corrective or disciplinary action when officers violate force policies.
4. **Improve Data Collection and Assessment of Force.** Assess data to identify trends and develop policies, training, and recommendations to reduce the use of force. Ensure that supervisors and command can effectively review force data.
5. **Develop Force Policies Appropriate for Youth and People with Behavioral Health Needs.** Recognize the unique characteristics of youth and people who have behavioral health needs. Develop policies addressing those characteristics.

Identifying and Reducing Racial Disparities

6. **Improve Documentation of Police Activity.** Ensure public safety data collection allows for analysis of racial disparities, including for stops, searches, search warrant applications, warrant executions, citations, arrests, force, and investigative activities. Ensure data captures the basis for enforcement action, including reasonable articulable suspicion or probable cause for stops and searches, the basis for consent searches, and the results of each search. Differentiate between traffic and pedestrian stops.

7. **Analyze Data from Enforcement Activity.** Develop capacity to analyze data about racial disparities in enforcement activities overall, and to assess the impact of any specialized units, initiatives, or programs.
8. **Reduce Unjustified Disparities.** Where unjustified racial disparities exist, take steps to reduce or eliminate them within MPD.

Protecting First Amendment Rights

9. **Improve Policies and Training Related to Protests and Demonstrations.** Revise policies on responding to civil disturbances and disorderly conduct to improve planning for protests; emphasize First Amendment freedoms; protect the right to gather and report the news; limit the use of less-lethal weapons; and provide daily after-action reports about force, officer wellness, and effectiveness. Training should address the challenges of protecting public safety and First Amendment rights during demonstrations critical of law enforcement.
10. **Improve Accountability for First Amendment Violations.** Ensure that force reviews and reviews of misconduct complaints assess whether an officer's conduct violated the First Amendment. Develop an after-action review process following protests to evaluate the performance of officers and commanders.

Responding to People with Behavioral Health Issues

11. **Expand BCR's Capacity, Training, and Coordination.** BCR should become a permanent 24/7 program with appropriate capacity, clinical oversight, comprehensive training, and continuous quality improvement processes, including enhanced data-collection and reporting capabilities. BCR should develop relationships with COPE and other mental health services to better serve individuals experiencing behavioral health issues, and BCR should cross-train with MECC, MPD, EMS, and Fire.
12. **Ensure MECC is Dispatching Appropriate Responder(s).** MECC should work closely with BCR, MPD, Fire, and EMS to update protocols for calls for service involving behavioral health issues. MECC must also coordinate with first responders, as well as City and Hennepin County entities, around the recent launch of the 988 Suicide and Crisis Lifeline. Prioritize MECC staffing issues, training on calls involving behavioral health, and quality assurance processes to assess call-taking, dispatches, and responses to such calls.
13. **Develop and Implement Appropriate Policies and Training Relating to Behavioral Health and Assess Their Impact.** Provide clinically informed training including community perspectives for MPD officers and supervisors. Develop policies and trainings specific to youth experiencing behavioral health issues. Ensure trainings address coordinating responses with other key actors (EMS, BCR, and COPE), avoid topics such as "excited delirium," and ensure

oversight of such training material and presentations. Implement after-action reviews of calls involving behavioral health issues, including debriefings for system and officer improvement.

Accountability

14. **Identify, Address, and Document All Allegations Raised in Misconduct Complaints.** Ensure all allegations of misconduct are comprehensively reviewed and resolved with appropriate documentation explaining decision-making. Hold supervisors accountable for failing to report or address misconduct.
15. **Require Officers to Report Misconduct.** Where officers do not report known misconduct, ensure they are held accountable. Ensure protections against retaliation for officers who report the misconduct of other officers.
16. **Facilitate Civilians' Access to the Complaint Process.** Ensure that when any officer encounters a person who wants to make a complaint, the officer puts the person in contact with a supervisor, internal affairs, OPCR or otherwise enables them to complain through appropriate means. Provide training to all officers on the appropriate procedures and on reasons for facilitating civilian complaints.
17. **Improve Civilian Complaint Investigations.** Ensure that when people make an allegation of MPD misconduct to any member of OPCR, MPD, or a City employee, the allegation is documented and reviewed, the allegation is fully investigated consistent with the Minneapolis Code of Ordinances § 172.30 (amended 12/14/2022) and state law, and the complainant is kept up to date on the complaint status. Train OPCR and MPD internal affairs investigators on investigative practices and the particular challenges of police investigations.
18. **Fully Staff OPCR and MPD Internal Affairs Units.** Ensure that OPCR and MPD internal affairs units are fully staffed with enough qualified, well-trained investigators to complete all investigations in a timely and consistent manner. Ensure that investigations are thorough, interviews are conducted appropriately, all evidence is appropriately weighed, and sound determinations of credibility of witnesses are made where there is conflicting evidence.
19. **Improve the Review Process for OPCR and MPD Internal Affairs Investigations.** Streamline the review process for administrative investigations to facilitate their timely resolution. Establish time limits for each stage of review, set firm expectations to ensure the process moves forward expeditiously, and document all decisions.
20. **Improve Quality of Data and Civilian Oversight.** Cooperate with the Community Commission on Police Oversight to promote robust and even-handed civilian oversight. Prioritize transparency in its internal affairs practices, including reporting to the public about the nature of complaints received, misconduct

findings made, and discipline imposed. Ensure IA and OPCR cases can be easily linked with police files.

Transparency

21. **Ensure Accuracy of Public Statements.** Ensure City and MPD leaders provide timely, accurate information about public safety, including after critical incidents.

Supervision

22. **Require Consistent Activation, De-Activation, and Review of Body-Worn Cameras.** Require officers to consistently activate body-worn cameras to document interactions with the public. Require supervisors to review footage to monitor officer performance and ensure compliance with MPD policies.
23. **Require Review of All Stops.** Require supervisory review of the reasonable articulable suspicion for any stops and frisks, the probable cause of any searches, and the basis for any consent searches. Require periodic analysis of the efficacy of certain practices where officers have more discretion, such as pretext stops or consent searches.
24. **Revise Staffing Practices.** Ensure that staffing practices achieve unity of command and that off-duty employment policies are consistent with officer wellness and effective supervision. Train supervisors to improve force incident review and to better communicate policy changes to officers.

Training

25. **Improve Training Department-Wide.** Use qualified instructors, best practices in adult learning, and outside experts and community-based instructors. Involve training officials in after-action evaluations of force incidents.
26. **Improve Training for Supervisors.** Train supervisors to promote effective and constitutional police practices by leading subordinates, monitoring and assessing their performance, evaluating written reports, investigating uses of force, building community partnerships, and de-escalating conflicts.
27. **Reform the Field Training Officer Program.** Improve standards for training and selection of field training officers so that they will consistently model and support MPD values and standards. Standardize the Field Training Officer program to ensure all officers and recruits are evaluated consistently and fairly.

Wellness

28. **Ensure Effectiveness of Health and Wellness Programs.** Ensure that officers are accessing effective support services and develop a comprehensive Early Intervention System to establish support for officers who need it.

CONCLUSION

The Department of Justice has reasonable cause to believe that MPD and the City engage in a pattern or practice of conduct that deprives people of their rights under the Constitution and federal law. MPD uses unreasonable force, infringes on First Amendment rights, and discriminates based on race and disability. MPD also lacks the systemic safeguards that can prevent or address those abuses, such as effective accountability, rigorous training, robust supervision, and appropriate officer support.

City and MPD leadership have been forthcoming about the need for reform. We recognize that they have negotiated a proposed Settlement Agreement and Order with MDHR that includes comprehensive reforms. We hope the remedial measures we propose will be the foundation for a productive conversation with the City and the Minneapolis community about the future of public safety.

EXHIBIT

45

Minneapolis
City of Lakes

Police Department

Janeé L. Harteau
Chief of Police

350 South 5th Street
Minneapolis MN 55415-1389

612 673-2735
TTY 612 673-2157

May 7, 2014

Officer Jeffrey Seidl
Strategic Information Center
Minneapolis Police Department

Officer Seidl,

RE: OPCR Case Number #12-3124
LETTER OF REPRIMAND

The finding for OPCR Case #12-3124 is as follows:

[redacted]

MPD P/P 5-103 Use of Discretion……..……..SUSTAINED (Category B)
MPD P/P 5-107 Procedural Code of Conduct……SUSTAINED (Category B)

[redacted]

You will receive this Letter of Reprimand. This case will remain a B violation and can be used as progressive discipline for three years until 09/04/2015, which is from the date of incident. [redacted]. The case will remain in the IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge from employment.

Sincerely,

Janee Harteau
Chief of Police

BY:
Matthew Clark
Assistant Chief

Pl.'s Ex. 45

I, Officer Jeffrey Seidl, acknowledge receipt of this Letter of Reprimand.

Officer Jeffrey Seidl Date of Receipt

5-19-14

Commander Gerlicher Date

CC: Commander Gerlicher
Personnel
IAU

EXHIBIT

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Minneapolis
City of Lakes

Police Department
Janeé L. Harteau, Chief of Police
350 S. Fifth St., Room 130
Minneapolis, MN 55415
TEL 612.673.3000
www.minneapolismn.gov

June 20, 2016

Officer Paul Dellwo
Third Precinct
Minneapolis Police Department

RE: IAU Case Number #14-22385
Letter of Reprimand

Officer Dellwo,

The finding for IAU Case #14-22385 is as follows:

MPD P/P 5-305 Authorized Use of Deadly Force.....SUSTAINED (Category B)
[redacted]

This letter will serve as a Letter of Reprimand for 5-305 Authorized Use of Deadly Force. You will also be transferred out of the 4th Precinct as part of the sustained B violation [redacted]

The case will remain in the IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

Janee Harteau
Chief of Police

AC Kristine Arneson

By: Kristine Arneson
Assistant Chief

Pl.'s Ex. 46

I, Officer Paul Dellwo, acknowledge receipt of this Notice of Suspension/LOR.

Officer Paul Dellwo 6-22-16
Officer Paul Dellwo Date of Receipt

Inspector Sullivan 6/22/16
Inspector Sullivan Date

CC: Personnel
IAU
Inspector Sullivan

EXHIBIT

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THE CITY OF MINNEAPOLIS

And

THE POLICE OFFICERS' FEDERATION OF MINNEAPOLIS

LABOR AGREEMENT

POLICE UNIT

For the Period:

January 1, 2017 through December 31, 2019

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LABOR AGREEMENT

Between

CITY OF MINNEAPOLIS

and

THE POLICE OFFICERS' FEDERATION OF MINNEAPOLIS

THIS AGREEMENT (hereinafter referred to as the ***Labor Agreement*** or the ***Agreement***) is entered into between the City of Minneapolis, a municipal corporation incorporated under the laws of the State of Minnesota (the ***City***, the ***Employer***, or the ***Department***), and the Police Officers' Federation of Minneapolis (the ***Federation***).

It is the purpose and intent of this Agreement to achieve and maintain sound, harmonious and mutually beneficial working and economic relations between the Parties hereto; to provide an orderly and peaceful means of resolving differences or misunderstandings which may arise under this Agreement; and to set forth herein the complete and full agreement between the Parties regarding terms and conditions of employment except as the same may be established by past practices which are determined to be binding by an arbitrator and not included in this contract.

The parties acknowledge and agree that any authority vested in the Chief of Police under this Agreement may be delegated by the Chief to his/her designee. Where such a delegation is made to a person, who in the context of the Agreement is someone to whom the Federation should direct communications, the Chief will notify the Federation as to the identity of the designee. However, in any event communications made to the Chief will be deemed to be made to the designee.

The Parties hereto agree as follows:

ARTICLE 1
RECOGNITION

Section 1.01 - Representation
The City recognizes the Federation as the exclusive representative for the unit consisting of employees serving in the following job titles: Police Officer, Sergeant and Lieutenant.

Section 1.02 - Classification Disputes
Disputes which may occur over the inclusion or exclusion of new or revised or other classifications in the unit described in Section 1.01 above shall be referred to the State Bureau of Mediation Services for determination pursuant to the provisions of the *Public Employment Labor Relations Act*, as amended.

ARTICLE 2
PAYROLL DEDUCTION FOR DUES

Section 2.01 - Dues Deductions
The City shall, upon request of any employee in the unit, deduct such sum as the Federation may specify as the regular dues of the Federation. The City shall remit monthly such deductions to the appropriate designated officer of the Federation.

Section 2.02 - Fair Share Fee Deductions
In accordance with *Minnesota Statutes* §179A.06, Subd. 3, the City agrees that upon notification by the Federation it shall deduct a *fair share fee* from all certified employees who are not members of the Federation. This fee shall be an amount equal to the regular membership dues of the Federation, less the cost of benefits financed through the dues and available only to members of the Federation, but in no event shall the fee exceed eighty-five percent (85%) of the regular membership dues. The Federation shall certify to the City, in writing, the current amount of the fair share fee to be deducted as well as the names of bargaining unit employees required by the Federation to pay the fee.

Section 2.03 - Administration.

(a) The City shall annually select a single payroll period in each month for which all monthly membership dues and fair share fees shall be deducted. In the event an employee covered by the provisions of this Article has insufficient pay due to cover the required deduction, the City shall have no further obligations to effect subsequent deductions for the involved month.

(b) All certifications from the Federation respecting deductions to be made as well as notifications by the Federation and/or bargaining unit employees as to changes in deductions must be received by the City at least fourteen (14) calendar days in advance of the date upon which the deduction is scheduled to be made in order for any change to be effected.

(c) The City shall remit such membership dues and fair share fee deductions made pursuant to the provisions of this Article to the appropriate designated officer of the Federation

within fifteen (15) calendar days of the date of the deduction along with a list of the names of the employees from whose wages deductions were made.

(d) Each month, the City shall provide to the Federation a report containing the following current information with regard to all employees covered by this Agreement pursuant to Section 1.01: name, home address, phone number, hire date, pay status (active or inactive) and the name of any employee who separated from service since the prior report with the reason for the separation. The City shall also provide to the Federation a copy of or electronic access to all transfer lists generated by the Department showing promotions, demotions, leaves of absence and changes in work location.

Section 2.04 - Hold Harmless Provision

The Federation will indemnify, defend and hold the City harmless against any and all claims made and against any suits instituted against the City, its officers or employees, by reason of deductions under this article.

ARTICLE 3
SENIORITY

Seniority as provided for in this Agreement shall be established from the date on which an employee first attains Step 1 (or any step higher than the "recruit" step if hired under the Lateral Hiring Process in Section 13.08) on the Police Officer wage schedule. Time while absent from the Department without compensation, except while on disability leave or while on non-voluntary active military service, shall not be counted for seniority. Separate seniority lists to determine seniority within each rank shall be maintained and shall be computed from the date of promotion to that rank. In the event of promotion to supervisory positions not within the unit and upon return to the unit, all service so performed shall be computed for seniority purposes to the rank held upon return to the unit. In the event of a demotion to a lower rank, the seniority accrued in the higher rank shall be applied to the seniority of the lower rank to which demoted. In the event of ties, ties shall be broken as follows:

1) Veterans, as defined by Minn. Stat. §197.447, shall be senior to non-veterans having the same seniority date; and
2) Any ties existing after the consideration of veteran status, shall be broken by the ranking of the employee's randomly assigned NeoGov application number or such other random system to which the parties may mutually agree.

ARTICLE 4
NEW OFFICERS ORIENTATION

The President of the Federation, or his/her designee, shall be granted one (1) hour of regularly scheduled new Officer orientation class time for the purpose of explaining the rights and obligations of employees under the *Public Employment Labor Relations Act of 1971*, as amended.

ARTICLE 5
MANAGEMENT RIGHTS

The Federation recognizes the right of the City to operate and manage its affairs in all respects in accordance with applicable law and regulations of appropriate authorities. All rights and authority which the City has not officially abridged, delegated or modified by this Agreement are retained by the City.

ARTICLE 6
WORK RULES AND REGULATIONS

It is understood that the City, through its various Departments, has the right to establish reasonable work rules and regulations. The City agrees to enter into discussion with the Federation on additions to or changes in the existing rules and regulations prior to their implementation. The City further agrees that changes shall be effective no sooner than three (3) calendar days after posting.

ARTICLE 7
UNION COMMUNICATION

The City shall provide reasonable bulletin board space at precincts, divisions and remote locations for use by the Federation in posting notices of Federation business and activities. The Federation may communicate with its members regarding Federation business and activities via reasonable use of the City's email system. The Federation shall work with the City to minimize the disruption to the City's information technology systems that may be caused by such email communications. The parties agree that the purpose of providing the Federation with bulletin board space and access to the email system is to foster effective communication relating to union business and is not to serve as a soap box to air complaints, offer political commentary or exchange personal messages among co-workers. Therefore, such union communications shall not contain anything that is political, offensive, obscene or that otherwise violates the City's Employee Policy on Electronic Communication.

ARTICLE 8
STRIKES AND LOCKOUTS

Section 8.01 - No Strike
The Federation, its officers or agents, or any of the employees covered by this Agreement shall not cause, instigate, encourage, condone, engage in or cooperate in any strike, the stoppage of work, work slowdown, the willful absence from one's position, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, regardless of the reasons for so doing.

Section 8.02 - Violations by Employees
Any employee who violates any provision of this Article may be subject to disciplinary action.

In the event the City notifies the Federation in writing that an employee may be violating this Article, the Federation shall immediately notify such employee in writing of the City's assertion and the provisions of this Article.

Section 8.03 - No Lockout
The City will not lock out any employee during the term of this Agreement as a result of a labor dispute with the Federation.

ARTICLE 9
LEGAL COUNSEL

Section 9.01 - Legal Counsel

The City shall provide legal counsel to defend any employee against any action or claim for damages, including punitive damages, subject to limitations set forth in *Minnesota Statutes* §466.07, based on allegations relating to any arrest or other act or omission by the employee provided: the employee was acting in the performance of the duties of his or her position; and was not guilty of malfeasance in office, willful neglect of duty or bad faith.

The City may undertake its obligation to its employee by assigning the matter to the City Attorney or by employing outside counsel at its discretion. However, where there is a conflict of interest between the City and its employee, the City Attorney may represent or assign outside counsel based upon the provisions of this Article. The decision on whether a conflict exists shall be decided in the first instance by the City Attorney. The City shall pay the costs and expenses associated with such separate and independent counsel in instances where the limitations set forth in *Minnesota Statutes* §466.07 do not apply.

Where the City determines that its position is in conflict with that of its employee, the City shall notify the employee of the conflict and advise the employee that he or she is entitled to select independent counsel pursuant to the procedures set forth in this Article.

Where the employee believes that his or her position in the litigation is in conflict with that of the City, the employee may request that he or she be represented by independent counsel. The employee shall make such request in writing and such request shall specify the facts upon which the employee relies in asserting the conflict. The City shall have five (5) business days from the date it receives such request to grant or deny the request and notify the employee in writing of its decision. If denied, the City shall state in such notice the factual and/or legal basis upon which the request is denied. If the request is not denied within the five (5) business day period, it shall be deemed granted.

If the City timely denies the request for independent counsel, the employee may appeal the decision within five (5) business days of the date on which he or she receives the City's decision by giving written notice of appeal to the City. The appeal shall be heard by a neutral third person who possesses the knowledge and experience necessary to determine whether a conflict of interest exists and who has been mutually selected by the City and the Federation. The Parties may present evidence and testimony before the decision maker. The hearing and review of the decision shall be governed by the Uniform Arbitration Act, *Minnesota Statutes* §572.01, et seq.

An employee entitled to independent counsel under this Article may select counsel from among the attorneys on the list approved by the City and the Federation. The Federation shall propose attorneys for the list subject to approval by the City based on the City's fee schedule. Such approval shall not unreasonably be withheld. Notwithstanding approval by the City, no firm shall be entitled to be placed on the list until it has agreed to undertake representation in such matters at the standard hourly rate negotiated by and among the Federation, the City, and all approved firms. The list of approved attorneys shall contain not less than three firms.

Section 9.02 - Assignment of Judgment for Costs
Each defendant represented by City-paid counsel shall assign to the City any judgment for costs or disbursements awarded in favor of such defendant.

Section 9.03 - Liability Insurance
The City may, at its option, maintain a standard policy of liability insurance covering employees against the actions and claims referenced in Section 9.01 above. The City shall pay all premiums for such coverage.

ARTICLE 10
NON-DISCRIMINATION AND HARASSMENT PREVENTION

In the application of this Agreement's terms and provisions, no bargaining unit employee shall be discriminated against in an unlawful manner as defined by applicable City, State and/or Federal law or because of an employee's political affiliation or membership in the Federation.

The Employer and the Union reaffirm the Employer's obligation to maintain a work environment which is hospitable to all employees, managers and supervisors. To that end, the Employer and the Union shall continue to develop and refine policies that prohibit harassment and abuse in the workplace by any employee, manager or supervisor. The Employer agrees to investigate all allegations of violations to that policy. Upon finding that a violation of the policy has occurred, the Employer shall take appropriate remedial and/or corrective action.

ARTICLE 11
SETTLEMENT OF DISPUTES

Section 11.01 - Scope
This Article shall apply to all members of the bargaining unit, but only as to resolution of grievances and not to interest arbitration.

Section 11.02 - Grievance Procedure
Grievances shall be resolved in the manner set out below. The City will cooperate with the Federation to expedite the grievance procedure to the maximum extent practical.

A "grievance" is any matter concerning the interpretation, application, or alleged violation of any currently effective agreement between the City and the bargaining unit. Any document or notice provided by one party to the other via email or other mutually acceptable electronic means shall satisfy the requirement that such document be provided in writing.

Subd. 1. Step One

To initiate a grievance, the Federation representative shall, within the time period specified below, inform the commander in writing on the standard grievance form. If the Federation expressly requests a discussion with the commander, such discussion shall take place within twenty-one (21) days after filing the grievance, unless the time is mutually extended.

Within twenty-one (21) days after the grievance is filed or the discussion meeting concludes, whichever is later, the Employer shall give its decision in writing, together with the supporting reasons to the Federation. Each Step One decision shall be clearly identified as a "Step One Decision."

The commander shall have the full authority of the Chief to resolve the grievance.

A grievance must be commenced at Step One no later than twenty-one (21) calendar days from the discovery of the grievable event(s) or from when the event(s) reasonably should have been discovered discovered by a represented member.

Class action grievances, defined as a grievance involving five (5) or more similarly situated employees, and disciplinary grievances involving a suspension, demotion or termination shall be filed at Step Two with no changes to time parameters.

Subd. 2. Step Two

If the Step One decision is not satisfactory, a written appeal may be filed by the Federation with the Chief. If the Federation expressly requests a discussion with the Chief, such discussion shall take place within twenty-one (21) days after filing the grievance appeal, unless the time is mutually extended.

The Chief may request the Director of Employee Services to serve as a mediator between the Employer and the Federation in an attempt to resolve the grievance, but the Director of Employee Services shall have no authority to compel either party to make a concession.

Within twenty-one (21) days after the Step Two meeting or receipt of the Step Two appeal, whichever is later, the Employer shall send a written response to the Federation. The Step Two decision shall clearly identify that answer as a "Step Two Decision."

Subd. 3. Step Three, Regular Arbitration

Within twenty-one (21) of the date of the Step Two decision the Federation shall have the right to submit the matter to arbitration by informing the Director of Employee Services that the matter is to be arbitrated. If the grievance has progressed to Step Three without the Federation receiving a written Step Two decision from the Employer in accordance with the provisions of Section 11.04, the Federation may request that the matter proceed to arbitration by informing the Director of Employee Services that the matter is to be arbitrated; If, after the matter has been referred to arbitration, the Federation has not sought to proceed to hearing, the Employer may at any time make a written inquiry of the Federation as to the status of the grievance. If the Employer makes such inquiry, the Federation shall have twenty-one (21) days from the date of such inquiry to make a written request to the Director of Employee Services or his/her designee to assign an arbitrator under the process described below. Thereafter, the parties shall request from the arbitrator dates for a hearing on the matter. If the Federation fails to make a timely request that an arbitrator be assigned or, within twenty one (21) days after receiving notice of the assignment of the arbitrator, does not participate in a good faith effort to schedule a hearing; the grievance shall no longer be subject to the grievance procedure. If the Employer fails to assign an arbitrator or, within twenty one (21) days after receiving notice of the assignment of the arbitrator, does not participate in a good faith effort to schedule a hearing; the grievance shall be deemed sustained and the requested relief shall be granted.

If the matter is to be arbitrated, a single arbitrator shall be selected from the panel of mutually agreed upon arbitrators maintained in accordance with the Memorandum of Agreement attached hereto as Attachment H. Arbitrators shall be selected from the panel on a rotating basis. If a grievance is referred to arbitration and no arbitrators on the panel are available to hear the case, the party referring the grievance to arbitration shall petition the Bureau of Mediation Services to provide a list of seven (7) qualified arbitrators from which the parties shall select an arbitrator to hear the grievance. The Employer and Federation shall select an arbitrator using the alternate strike method with the party exercising the first strike selected by coin flip. In scheduling arbitration hearings, the parties will give priority to grievances contesting the termination of an employee.

One observer representative of the Federation, the aggrieved member(s), if any, all necessary Federation witnesses who are employees of the Employer shall receive their regular salary and wages for the time spent in the arbitration proceeding, if during regular work hours. An additional Federation observer shall be allowed; however, the Federation shall provide the means for compensating the

additional observer and his/her replacement employee, if necessary. Federation time may be used to reimburse the Employer for the replacement employee.

The arbitrator shall render a written decision and the reasons, therefore resolving the grievance, and order any appropriate relief within thirty (30) days following the close of the hearing or the submission of briefs by the parties. The decision and award of the arbitrator shall be final and binding upon the City, the Federation and the employee(s) affected.

The arbitrator shall have no authority to amend, modify, nullify, ignore, add to, or subtract from the provisions of this agreement. The arbitrator is also prohibited from making any decision that is contrary to law or to public policy.

Section 11.03 - Expedited Arbitration

Upon the mutual agreement of the parties, any grievance to be arbitrated may be referred to expedited arbitration where the time frame for effective resolution is so short that the normal arbitration procedure would be untimely. Upon such referral, the Federation and the City will make immediate (within twenty-four (24) hours) arrangements with the panel selected by the parties, or if none has been selected, with the Bureau of Mediation Services. The expedited arbitration procedure shall begin as soon as the parties and the arbitrator can initiate a hearing. It shall be the specific request of both the Federation and the City to have a decision within seven (7) days of the hearing, and that no briefs will be filed.

Section 11.04 - Time Limits; Communications

Time limits, specified in this procedure may be extended by written mutual agreement of the parties. When practical, the preferred method of giving notices and communications under this Article shall be by email. The failure of the City to comply with any time limit herein means that the Federation shall be deemed to have processed the grievance to the next step of the grievance procedure. Failure of the Federation or its employees to comply with any time limit herein renders the alleged violation untimely and no longer subject to the grievance procedure.

Notices or communications referenced under this Article shall be given:

TO THE EMPLOYER	TO THE FEDERATION
Chief of Police	Its President
Assistant Chief	Its Representative who signed the grievance
Police Administration Secretary	Its Office Administrative Assistant
Director of Employee Services	

Section 11.05 - Arbitration Expenses

The fees and expenses of the Arbitrator shall be divided equally between the Employer and the Association provided, however, that each Party shall be responsible for compensating its own representatives and witnesses. If either Party desires a verbatim record of the proceedings, it may cause such record to be made provided it pays for the cost of preparing the record. Further, if the party requesting the record requests submitting post-hearing briefs, such party shall at its cost provide a copy of the record to the other Party and to the Arbitrator.

Section 11.06 - Election of Remedy

The parties acknowledge that the facts and circumstances which form the basis of a grievance may also form the basis of claims which may be asserted by an individual employee in other forums. The purpose of this Section is to establish limitations on the right of the Union to pursue a grievance in such situations.

Subd. 1. Civil Service Rights

When the subject matter of a grievance to which Article 11 applies is also within the jurisdiction of the Minneapolis Civil Service Commission the resolution of the dispute may proceed through the grievance procedure or the Civil Service appeals procedure. However, once the employee files an appeal to the Civil Service Commission, the Union's right to pursue a grievance under this Article is terminated.

Notwithstanding anything in the Civil Service Rules to the contrary, an employee's right to file an appeal with the Civil Service Commission expires on the later of: ten (10) days after the deadline for the Union to file a grievance under this Article; or ten (10) days after the employee has received notice from the Union of its final decision not to pursue a grievance. The Union shall provide notice to the City of such decision promptly after providing notice to the employee.

Subd. 2. Rights of Veterans

Some employees covered by this Agreement may have the individual right to contest a removal from a position or employment under Minn. Stat. §197.46. Once an employee requests a hearing under Minn. Stat. §197.46, the Union's right to pursue a grievance under this Article is terminated.

Subd. 3.Other Rights of Employees

No action by the Union under this Agreement shall prevent an employee from pursuing a charge of discrimination brought under Title VII, The Americans with Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act.

Section 11.07 - No Waiver of Rights Without Written Agreement

In order to facilitate the resolution of disputes or concerns in a more expedient and non-adversarial manner, the Parties desire to be able to discuss the resolution of such matters without having such discussions be construed as a waiver of either the Employer's right to exercise its unabridged managerial prerogatives or the Federation's right to negotiate over terms and conditions of employment. The parties acknowledge the holding of the Minnesota Supreme Court in *Arrowhead Public Service Union v. City of Duluth* [336 N.W.2d 68 (Minn. 1983), 116 LRRM (BNA) 2187] as follows:

> Without question, decisions concerning a City's budget, its programs and organizational structure, and the number of personnel it employs to conduct its operations are matters of [inherent managerial] policy. While a public employer must negotiate terms and conditions of employment, it is not required to negotiate matters of inherent managerial policy although it may do so voluntary. When, however, a public employer negotiates matters of inherent managerial policy which it has no obligation to negotiate and thereby relinquishes the right to determine policy with respect to its budget, its organizational

> structure and the number of personnel it should employ, *the public employer - like the collective bargaining representative which waives the statutory right to bargain over a mandatory subject of bargaining - must do so in clear and unmistakable language.* [emphasis added; citations omitted]

Therefore, it is not a prerequisite to substantive and/or meaningful discussions concerning a matter of interest to either the Employer or the Federation or the Parties jointly that the Parties agree as to whether the matter is a *term and condition of employment* or an *inherent managerial policy* as those terms are defined and referenced in *Minnesota Statutes* Chapter 179A, as amended. The Parties may freely discuss any such matters and may reach an understanding regarding the extent to which the matter may be resolved and/or the manner of resolution. However, unless the parties shall enter into a written agreement which contains clear and unmistakable language documenting a waiver of rights, neither the mere fact that the Parties had such discussions nor the existence of any understanding regarding resolution of the matter shall constitute or be construed to be a waiver of either: the Federation's right to at any time thereafter assert or contest that the matter is a term and condition of employment which is subject to collective bargaining and which may not be unilaterally imposed; or the Employer's right to at any time thereafter assert that the matter is one of inherent managerial policy not subject to mandatory collective bargaining prior to implementation.

Section 11.08 - Past Practices

Evidence of custom and past practice may be introduced for the following purposes:

(a) to provide the basis of rules governing matters not included in the written contract;

(b) to indicate the proper interpretation of ambiguous contract language; or

(c) to support allegations that clear language of the written contract has been amended by mutual action or agreement.

The extent to which such evidence of custom and past practice shall be considered to bind the parties is governed by generally accepted principles of labor relations applicable to the purpose for which the evidence is offered.

ARTICLE 12
DISCIPLINE

Section 12.01 - Just Cause
The City, through the Chief of the Minneapolis Police Department, will discipline employees who have completed the required probationary period only for just cause. The unit of measurement for any suspensions which may be assessed shall be in hours. Investigations into an employee's conduct which do not result in the imposition of discipline shall not be entered into the employee's official personnel file maintained in the Police Department and/or the City's Human Resources Department. For the purposes of this Article, disputes related to personnel file retention and/or reconciliation may be resolved through the procedures set forth in Article 11, Settlement of Disputes.

Section 12.02 - Appeals
Except as provided in Section 12.05, a suspension, written reprimand, transfer, demotion (except during the probationary period) or discharge of an employee who has completed the required probationary period may be appealed through the grievance procedure as contained in Article 11 of this Agreement. In the alternative, where applicable, an employee may seek redress through a procedure such as Civil Service, Veteran's Preference, or Fair Employment. Except as may be provided by Minnesota law or by Section 11.06 of this Agreement, once a written grievance or an appeal has been properly filed or submitted by the employee or the Federation on the employee's behalf through the grievance procedure of this Agreement or another available procedure, the employee's right to pursue redress in an alternative forum or manner is terminated.

Section 12.03 - Personnel Data
Pursuant to the terms and definitions set forth in the Minnesota Government Data Practices Act, the Chief of Police and/or the Human Resources Director or their respective designees shall be the "responsible authority" with regard to all "personnel data" gathered or maintained by the City with regard to employees governed by this Agreement. Employees shall receive copies of and be permitted to respond to all letters of commendation or complaints that are entered and retained in the official personnel file. Upon the written request of employees, the contents of their official personnel file shall be disclosed to them, or with formal release, their Federation Representative, and/or their legal counsel.

Section 12.04 - Investigatory Interviews.

(a) Before taking a formal statement from any employee, the City shall provide to the employee from whom the formal statement is sought a written summary of the events to which the statement relates. To the extent known to the City, such summary shall include: the date and time (or period of time if relating to multiple events) and the location(s) of the alleged events; a summary of the alleged acts or omissions at issue; and the policies, rules or regulations allegedly violated. Except where impractical due to the immediacy of the investigation, the summary shall be provided to the employee not less than two (2) days prior to the taking of his/her statement. If the summary is provided to the employee just prior to the taking of the statement, the employee shall be given a reasonable opportunity to consult with a Federation representative before proceeding with the scheduled statement.

(b) In cases where the City believes that providing the pre-statement summary would cause a violation of the Minnesota Government Data Practices Act or cause undue risk of endangering a person, jeopardizing an ongoing criminal investigation or creating civil liability for the City, the City shall notify the Federation's President or attorneys of the reasons it believes that the pre-statement summary should not be given.

(c) Nothing herein shall preclude an investigator, whether during or subsequent to the taking of a formal statement, from soliciting information which is beyond the scope of the pre-statement summary but which relates to information provided during the taking of the statement and which could form the basis of a disciplinary action.

(d) An employee from whom a formal statement is requested is entitled to have a Federation representative or an attorney retained by the employee, or both, present during the taking of such statement. The employee's representative(s) shall be allowed to advise the employee but shall not respond for or advocate for the employee nor disrupt the investigation proceedings. The Federation will ensure that its representatives at all times conduct themselves in a professional manner.

(e) For the purpose of this Section 12.04, a "formal statement" is a written, recorded or transcribed record, whether in a narrative form or in response to questions, which is requested to be provided by any sworn employee as part of an investigation of alleged acts or omissions by a sworn employee(s) which may result in the imposition of discipline against any sworn employee(s).

Section 12.05 - Discipline of Personnel With Rights to Return to Bargaining Unit

If a Commander is removed (un-appointed) from the position *as the result of discipline,* any discipline shall be imposed while the employee holds the rank of Commander and shall not be imposed *after* the employee is removed and returned to his/her last held permanently certified title. Such removal of a Commander shall not cause the demotion of another employee holding the rank of the last held permanently certified title and any reduction in the rank shall be by attrition. Further, if discipline is imposed on a Commander for reasons based on conduct that occurred while serving as a Commander, the employee shall not have access to the Settlement of Dispute procedures in Article 11 of this Agreement but may have access to the Civil Service Commission appeal process.

ARTICLE 13
SALARIES

Section 13.01 - Pay Period

(a) Except as provided in subsection (b), below, all wages shall be computed and paid on a biweekly basis. The regular amount of pay shall be the biweekly rate regardless of the number of hours on duty for that period, provided that the employee is on duty as scheduled or is on authorized paid leave.

(b) The Fair Labor Standards Act (FLSA) requires that a law enforcement employee be compensated at one and one-half times his/her "regular rate" for hours worked that exceed 171 hours in a 28-day pay cycle ("FLSA Overtime Hours"). Certain items of compensation that the FLSA requires to be included in the calculation of an employee's "regular rate" may not be known at the time FLSA Overtime Hours are worked. Therefore, as soon as practical following the conclusion of each payroll year, the Employer will: review the payroll records for each employee to determine whether any adjustment to the employee's regular rate for purposes of FLSA Overtime Hours is required; and, if so, pay to the employee the balance of amounts owing for the FLSA Overtime Hours worked by the employee during the preceding payroll year.

Section 13.02 - Wage Schedule

Attached hereto and incorporated herein, are the schedules of wage rates for employees. The effective date of each schedule shall be as specified on the schedule and as provided in this Section. The final wage schedule shall remain in effect until a new schedule of wage rates for employees is established by the written agreement of the Parties.

New salary schedules shall be implemented as follows:

(a) A negotiated effective date of January 1, or a date thereafter up to the first day of the first full payroll period of the calendar year, shall be implemented as of the first day of the first full payroll period of the calendar year.

(b) A negotiated effective date on or after the first day of the first full payroll period of the calendar year shall be implemented as of the first day of the pay period in which the negotiated effective date falls.

Section 13.03 - Health Care Savings Account Contribution

Effective April 6, 2003 the Parties have adopted the Post Employment Health Care Savings Plan, as established in Minn. Stat. §352.98, as administered by the Minnesota State Retirement System ("MSRS"). Subject to the terms and conditions established by MSRS, said program will provide a totally tax-free reimbursement for eligible medical expenses to those former employees who have an account balance consisting of the contributions from the Employer, mandatory employee contributions, and investment returns.

The Parties have negotiated that employees in this bargaining unit will make mandatory employee contributions in lieu of cash payment for the following items:

- $25.00 bi-weekly per employee
- 100% of Sick Leave Severance due at retirement (see Section 28.02);
- 100% of any unused vacation pay at the time of voluntary separation from service (see Section 22.06)

Section 13.04 - Longevity

A longevity payment shall be paid to each employee at the beginning of the seventh year of police service in the amount specified in the attached wage schedule, as applicable. Employees of record as of February 1, 1985 shall be regarded as having started at the *2nd Year* step for longevity progression purposes. The dollar amounts specified in the wage schedule shall be adjusted by the same percentage and at the same time as across the board increases in the base wages for the top step of the Police Officer wage schedule. An employee shall move to the next step in the longevity schedule on the anniversary of his/her employment with the Police Department.

Section 13.05 - Shift Differential

Employees in the Department who work a scheduled shift in which a majority of the work hours fall between the hours of 6:00 p.m. and 6:00 a.m., shall be paid a shift differential in the amount specified in the attached wage schedule for all hours worked on such shifts. The dollar amount specified in the wage schedule shall be adjusted by the same percentage and at the same time as across the board increases in the base wages for the seventh step of the Police Officer wage schedule. (See wage schedule for amount)

Section 13.06 - Pay Progressions

Employees shall be eligible to be considered for advancement to the next higher step within the pay range for their classification as provided in this Section.

Subd. 1. Police Officer

(a) Lateral Hires. Initial placement on the wage schedule for Police Officers with prior law enforcement experience shall be made pursuant to Section 13.08. Thereafter, eligibility for subsequent step progression shall be as established in subparagraph (c), below.

(b) All Other Police Officers. All other Police Officers shall, upon hire, be placed on the "Recruit Step" as designated on the attached wage schedule. The employee shall move to Step 1 of the wage schedule upon successful completion of the Recruit Academy. Upon the completion of twelve (12) months of *actual paid service* at Step 1, the employee shall be eligible to progress to Step 2. Upon the completion of eight (8) months of *actual paid service* at Step 2, the employee shall be eligible to progress to Step 3. Thereafter, eligibility for subsequent step progression shall be as established in subparagraph (c), below.

(c) Progression. Upon the completion of each twelve (12) months of *actual paid service* in a salary step of the wage schedule for the employee's job

classification, an employee shall be eligible to progress to the next step until he/she has reached the top step on the schedule.

Subd. 2 Sergeants and Lieutenants

Upon promotion, the employee shall be placed on the salary schedule pursuant to Section 13.07. Thereafter, eligibility for subsequent step progression shall be as established in subparagraph (c) of Subd. 1, above.

Subd. 3. Conditions and Implementation for Step Progression

Any such increases under this Section 13.06, may be withheld or delayed in cases where the employee's job performance has been of a less than satisfactory level in which case the employee shall be notified that the increase is being withheld or delayed and of the specific reasons therefore. All such denials or delays shall be subject to review under the provisions of Article 11 (*Settlement of Disputes*) of this Agreement. All increases approved pursuant to this Section shall be made effective on the first day of the pay period, which includes the date of eligibility. If an employee is advanced to the next higher step within his/her pay range by reason of the elimination of the step he/she was in, the employee's anniversary date in the job classification he/she was in at such time shall be permanently adjusted to the month and day that such step advancement occurred.

Section 13.07 - Pay Upon Promotion

The salary of an employee who is promoted to a position which provides for a higher maximum salary than the employee's current position shall be the next increment higher than the salary last received by such employee in the lower classification; provided, however, that if the next increment is not at least four percent (4%) higher than the salary last received, the employee shall be advanced an additional increment if one so exists and thereafter shall increase in accordance with Section 13.06 of this Article. The provisions of this subdivision shall also be applicable whenever an employee is detailed by the Minneapolis Civil Service Commission to perform all or substantially all of the duties of a higher-paid classification.

Section 13.08 - Prior Sworn Law Enforcement Experience

Subd. 1. Hiring Process

Notwithstanding any provision of the Civil Service Rules to the contrary, the Chief may, upon the prior advice and consent of the Chief Human Resources Officer, use the following process to make offers of employment for the job classification of Police Officer to applicants with prior sworn law enforcement experience.

(a) At least twenty (20) days prior to accepting application, a posting shall be made advertising that the Department is accepting applications from individuals having prior sworn law enforcement experience. The posting may be made without an expiration date.

(b) In order to be eligible for hire under this provision, an applicant must be POST license eligible pursuant to the requirements established by Minn. Stat. §626.8515.

(c) The Chief may determine the minimum qualifications necessary to be considered for employment and may make an offer of employment to any candidate who meets such

qualifications. However, the minimum qualifications shall not be less than the minimum qualifications for hiring under the competitive examination process as established pursuant to Civil Service Rule 6.03.

(d) The Chief may determine the nature and extent of training necessary for a candidate hired under this Section to become a sworn employee of the Department. The training need not be the same as the training provided to a newly hired Police Officer without prior law enforcement experience.

(e) At least thirty (30) days prior to initiating or amending a posting, the minimum qualifications or the hiring process under this Section, the Chief shall give notice to the Federation and afford the Federation an opportunity to meet and confer if requested.

Subd. 2. Salary and Benefits - General

For a new hire with prior experience as a sworn law enforcement officer, the initial placement on the salary schedule in the classification of Police Officer and on the vacation accrual schedule in Section 22.02 shall be made as follows:

(a) One year of MPD service shall be credited for every two full years of prior service with a large department or departments.

(b) One year of MPD service shall be credited for every three full years of prior service with a small department or departments.

(c) "Prior service", as referenced in subsections (a) and (b) does not include:

i. service to an agency while licensed as part-time officer;
ii. service to an agency for which the employee's regular work schedule, except in the case of limitations on work hours for medical reasons, was less than an average of forty (40) hours per week; or
iii. Military service.

(d) With regard to initial placement on the vacation accrual schedule, no new employee shall be placed at an initial annual accrual rate higher than 128 hours regardless of the years of his/her prior service.

(e) The threshold for large/small department is 50 sworn employees as determined by the most recent FBI "Crime in the United States" annual report.

(f) For purposes of calculating qualified prior years of service, all full calendar months worked in qualified large or small departments shall be summed before applying the service credit conversion for that type of jurisdiction (i.e. large or small) as described in subsections (a) and (b), above.

(g) The resulting full-credit-years as determined for both large and small departments shall be added together to determine the total number of years of service credit that shall be awarded to the new employee.

(h) A break in sworn service longer than six months between any of the prior jurisdiction jobs shall break the line of eligible work experience from work experience preceding the 6-month break in service.

(i) Prior service credit will be considered only if the new employee's last day of active service in the prior sworn position was within two years of the date of an offer of employment by the Minneapolis Police Department.

Subd. 3. Salary and Benefits – Minneapolis Park Police

For a new hire with prior experience as a sworn law enforcement officer in the Minneapolis Police Department ("Park Police") time served in the Park Police shall be considered the same as "MPD service" for the purpose of determining the employee's vacation accrual rate and placement on the salary schedule. If the Park Police had included prior service credit for time served in the MPD in determining the employee's compensation and vacation accrual rate as a Park Police employee, such prior time served at the MPD shall also be included upon rehire by MPD as "time served in the Park Police" under the preceding sentence.

Subd. 4. Step Progression

After initial placement on the salary schedule, the new employee shall be entitled to future step increases thereafter pursuant to the provisions of Section 13.06.

Subd. 5. Limitation on Application of Prior Service Credit

Prior service credit shall be used only to determine the new employee's initial placement on the salary and vacation accrual schedules and shall not be considered for purposes of eligibility for longevity pay, performance pay, promotion or other rights or benefits of employment which are based on time served with the MPD. Regardless of whether a new employee is given such prior service credit, his/her seniority shall be determined consistent with the provisions of Article 3 of this Agreement.

Section 13.09 - Performance Management

Subd. 1. Supervisor Responsibilities

Supervisory employees are responsible for

- Assuring that employees perform their jobs consistent with the expectations and values of the Minneapolis Police Department and the City of Minneapolis;

- Communicating reasonable performance expectations prior to April 1 of each year, and for documenting and notifying employees of inappropriate conduct as soon after the conduct as possible, and giving the employee guidance and time to correct behavior; and

- Discussing with and encouraging employees regarding the opportunities for career enrichment and advancement within the Department, including the benefits of periodic

transfers to broaden an employee's perspective and experience. However, the transfer of an employee in a Bid Assignment shall be voluntary, except as provided under Section 16.02, Subd. 3(b) or Section 16.04, Subd. 2. If an employee agrees to such a "career enrichment" transfer, the transfer shall not cause the displacement of another employee in the precinct or work group to which the employee is transferred.

Subd. 2. Performance Premium

Effective January 1, 2017, performance premium shall no longer be payable to Police Officers under this Section. In lieu thereof, as of that date and after the application of the negotiated wage adjustment effective on that date, the wage schedule for the rank of Police Officer shall be adjusted as follows: 1% shall be added to each step of the wage schedule; except that 2% shall be added to the top step of the wage schedule.

Employees in the rank of Sergeant shall be entitled to a lump sum payment upon receiving a satisfactory or higher performance evaluation using job expectations and performance standards established by the Chief of Police. The performance evaluation shall be completed with notification of satisfactory performance sent to payroll by November 15 with the premium being paid by December 31 of each year.

The performance premium shall be equal to two percent (2%) of the employee's base pay, exclusive of shift differential, overtime or other forms of additional compensation. The performance premium shall be prorated for each scheduling cycle during which no work was performed for the majority of the hours which would normally have been scheduled, excluding the use of sick leave, vacation leave, military leave (payable upon return), documented FMLA leave or compensatory time.

If a supervisor does not conduct a performance evaluation, the employee shall be considered to have received a satisfactory evaluation. An eligible employee who does not receive a satisfactory performance evaluation may, within thirty (30) days of receipt of the evaluation, appeal the subjective portions of the evaluation to the appropriate Bureau Head for a final decision. The issue of whether a performance evaluation was conducted shall be subject to the provisions of Article 11.

Effective January 1, 2019, performance premium shall no longer be payable under this Section and, in lieu thereof, 2% shall be added to each step of the wage schedule for the rank of Sergeant after application of the negotiated wage adjustment effective on that date.

ARTICLE 14
CLOTHING AND EQUIPMENT ALLOWANCE

Section 14.01 - Clothing and Equipment Allowance

Effective January 1, 2000, employees are eligible for an allowance of seven hundred fifty dollars ($750.00) per year. Effective as of January 1, 2001 and on the first day of each calendar year thereafter, the allowance shall be adjusted by the percentage determined in accordance with the index described in Section 14.03, below. A newly hired employee shall be entitled, at any time during the first 18 months of his/her employment, reimbursement for the purchase price paid by him/her for clothing or equipment which comports with the list of approved clothing and equipment established by the Department upon

the recommendation of the Uniform Committee. The maximum amount for which reimbursement is allowed shall be equal to three (3) times the annual clothing and equipment allowance in effect at the commencement of the new employee's employment. The reimbursement allowance shall be in lieu of the annual clothing and equipment allowance and, therefore newly hired employees shall not be entitled to the clothing and equipment allowance until after the third anniversary of their employment. Such an employee shall be entitled to the prorated portion of the annual clothing and equipment allowance for the calendar year in which his/her third anniversary occurs. If an employee leaves his/her employment with the Department prior to his/her third anniversary, the Department is entitled to recover from the employee an amount equal to 1/36 of the reimbursement allowance received by the employee during his/her employment times the number of full months by which the employee fell short of attaining his/her 36 month anniversary.

Section 14.02 - Eligibility

The Chief of the Police Department shall, on or before May 1 of each year, submit to the City Coordinator for approval the name and rank of each employee on the payroll as of April 1 who is entitled to such an allowance. Such allowance shall be paid on or about June 1.

Section 14.03 - Uniform Committee

The Employer shall maintain a Uniform Committee which shall consist of three (3) persons selected by the Employer and three (3) persons selected by the Federation. The duties of the Uniform Committee shall include developing and maintaining a list of clothing and equipment which must be obtained in order to commence employment with the Department. Beginning January 2000, and continuing each January thereafter, the Committee shall calculate the cost of obtaining all of the clothing and equipment on such list. The Committee shall then prepare and maintain a cost index which measures the annual percentage change from year to year in the cost of purchasing the clothing and equipment on the list.

ARTICLE 15
GROUP BENEFITS

Section 15.01 - General

Subd. 1. Definitions

(a) **Benefit Eligible Employee.** A benefit eligible employee is an Employee who has met the benefit eligibility requirements under Subd. 2 of this Section 15.01.

(b) **Full-time Employee.** For the purposes of this Article, a Full-time Employee is an employee assigned to a position designated as .75 FTE or greater.

Subd.2. Benefit eligibility requirements

Coverage for the group benefits referenced in this Article starts for Full-Time Employees on the first day of the month following completion of one month of continuous employment, provided the employee has timely submitted the proper enrollment forms.

Section 15.02 - Full-time Employee Benefits

Subd. 1. Group Medical Plan and HRA/VEBA

(a) Upon proper application, Benefit Eligible Employees will be enrolled, along with their eligible dependents if desired, as covered participants in one of the Employer's available medical plans and the HRA/VEBA and will be provided with the coverages specified therein.

(b) Contributions towards medical plan coverage and the HRA VEBA will be determined pursuant to the Letter of Agreement, which is attached to this Collective Bargaining Agreement and hereby incorporated as "Attachment C".

(c) The Minneapolis Board of Business Agents will be entitled to select up to five representatives to participate with the Employer in negotiating with City of Minneapolis medical plan providers regarding the terms and conditions of coverage that are consistent with the benefits conferred under the collective bargaining agreements between the Employer and the certified exclusive representative of the employees. The representatives will have no authority to veto any decision made by the Employer. However, in no instance will this be interpreted as the bargaining units giving up their rights under MN Stat. 471.6161.

Subd. 2. Group Dental Plan

Upon proper application, Benefit Eligible Employees will be enrolled, along with their eligible dependents, in the Employer's group dental plan and will be provided with the coverages specified therein. The Employer will pay the required premiums for the plan on a single/family composite basis.

Subd. 3. Group Life Insurance

Benefit Eligible Employees will be enrolled in the Employers group term life insurance policy and will be provided with a death benefit of the lesser of one (1) times annual compensation as defined by the life insurance policy or fifty thousand dollars ($50,000.00). When employees meet eligibility requirements but they are not on active status, they will be eligible to enroll upon their return to active status. The Employer will pay the required premiums for the above amounts and will continue to provide arrangements for employees to purchase additional amounts of life insurance.

Subd. 4. MinneFlex Plan

Upon proper application, Benefit Eligible Employees will be enrolled in the Employer's *MinneFlex* Plan. The *Plan Document* will control all questions of eligibility, enrollment, claims and benefits.

ARTICLE 16
JOB CLASSIFICATION AND ASSIGNMENT OF PERSONNEL

Section 16.01 - Job Classifications

The parties recognize that work and methods of service delivery may change from time to time. The general responsibilities described below are intended to establish guidelines to determine to which job classification work should be assigned. However, these descriptions are not intended to be exhaustive or to limit the ability of the City to respond to changing demands.

Police Officer - Front line sworn employee to perform the following as directed by a superior: patrol assigned areas, respond to 911 calls, detect, deter and conduct primary investigation of crimes, maintain law and order, make arrests, assist the public and assure public safety. May perform certain secondary investigative functions under the supervision and at the direction of a Sergeant. Not supervisor as defined by Minnesota Statute 179A.03, Subd. 17. For example, a Police Officer shall not assign cases, direct or evaluate the work of another Police Officer, authorize arrests or coordinate or direct the execution of search warrants or wire taps.

Sergeant - Administer the directives of superiors and guide the actions of subordinates in enforcing Federal, State and local laws for the Minneapolis Police Department; perform secondary case investigation of crimes and assure public safety. Supervisor as defined by Minnesota Statue 179A.03, Subd. 17.

Lieutenant - Commands and supervises major areas or programs as defined by the Chief, enforces compliance with departmental policies, procedures and goals. Supervisor as defined by Minnesota Statue 179A.03, Subd. 17.

Section 16.02 - Job Classification Staffing

The parties agree to the following staffing parameters:

(a) The number of sergeants in the Department shall not be reduced below twenty-three and one-quarter percent (23.25%) of the greater of the total authorized strength of all sworn personnel of the Department; or the actual number of sworn personnel, as determined on July 1 of each year.

(b) The number of lieutenants in the Department shall not be reduced below four and one-half percent (4.5%) of the greater of the total authorized strength of all sworn personnel of the Department; or the actual number of sworn personnel, as determined on July 1 of each year.

Section 16.03 - Working Out of Class

Subd. 1. Details.

If an employee is temporarily ordered or designated to perform all or a substantial portion of the essential duties that are normally those of a higher job classification, the employee should be detailed to the higher classification under Section 16.04, below.

Subd. 2. Work Out of Class.

An employee shall be considered to be working out of class if he/she meets the criteria of Subd. 1, but is not formally detailed to the higher classification.

Subd. 3. Compensation.

(a) When an employee is detailed under Subd. 1, or working out of class under Subd. 2 for a period of at least five (5) consecutive work days, the employee shall be compensated for all such hours worked in the higher classification as if the employee had been promoted to such classification.

(b) The period of compensation shall run from the first work day on which he/she assumed the out of class duties to the day on which such out of class duties were reassigned.

(c) No out of class compensation shall be payable to an employee who performs out of class work due to a career enrichment or limited duty assignment provided the scope and duration of such assignment is approved by the Department and the Federation prior to the assumption of the duties by the employee.

(d) The employer shall not serially assign employees to perform duties outside their normal job classification in order to circumvent the compensation provisions of this subdivision.

Subd. 4. Watch Commander.

The employer may assign watch commander duties to a sergeant who has received watch commander training. When a sergeant is assigned watch commander duties, he/she shall be compensated at the hourly rate of a first-step lieutenant for time worked as a watch commander.

Section 16.04 - Temporary Assignments (Details)

Subd. 1. Assignment

The Department may assign (detail) an employee on a temporary basis for up to six (6) months, or such other period as may be expressly established by the terms of this Agreement, if:

(a) the vacancy is pending classification or appointment from a list of qualified candidates; or

(b) the vacancy is of a temporary nature.

Subd. 2. Termination

(a) The detail shall terminate once the condition upon which the detail was based no longer exists.

(b) If a detail used to fill a temporary vacancy terminates by reason of the vacancy being deemed "permanent" and there is no current list of qualified candidates to fill vacancies in the rank, a new detail of not more than six (6) months may be initiated, provided:

(1) the Employer shall proceed as soon as possible to establish a list of qualified candidates;
(2) the detail shall terminate not less than thirty (30) days after the establishment of a list of qualified candidates is established; and
(3) the period of the combined details does not exceed twelve (12) months.

(c) In no event shall a detail be used to fill a vacancy for more than twelve (12) months.

Subd. 3. Selection

The department retains the sole discretion to determine which employee to select. So long as the selection was based upon an articulable business reason, the selection is not grievable. It is the department's responsibility to inform the person approved for temporary assignment that the assignment does not confer any permanent change in status.

Subd. 4. Compensation

The wage of an employee who is detailed to work in a higher classification shall be set at the first step of the wage schedule for the higher job classification. Upon the conclusion of the detail, the employee shall be returned to the step on the wage schedule he/she would have been at had the detail not occurred. Disputes arising from alleged violations of this Section shall be subject to the Expedited Arbitration provisions of Article 11 of this Agreement at the request of the Federation notwithstanding the "mutual agreement" provisions in Article 11.

Section 16.05 - Permanent Reassignments

If an employee's permanent work assignment is changed from one precinct or division to another, the employee shall be sent specific written notice of the reason for the transfer at least ten (10) calendar days before it becomes effective. A work assignment is "permanent" if it continues for more than thirty (30) consecutive calendar days. The Change in Shift compensation provisions of Section 18.03 shall not apply in the event of a permanent transfer even though an employee's work schedule in the new assignment may differ from his/her posted schedule in the prior assignment. However, if the Department fails to give the required advance notice of the transfer, all hours worked during the period commencing with the first day of work after the effective date of the transfer and ending with the 10th day following the date on which the notice was given, shall be considered Overtime and, therefore, subject to the provisions of Section 20.02 of this Agreement.

Section 16.06 - Reinstatement of Employees Who Resigned from the Classified Service

Former sworn employees may be reinstated to the top of an open list of eligible candidates for the class they last held providing the conditions listed below are met. If no vacancies exist in the class they last held, reinstatement may also be to the open list of a lower classification held by them. The conditions for reinstatement are:

(a) They successfully completed a probationary period in that class;

(b) They resigned in good standing and not in lieu of discharge;

(c) They requested reinstatement within two years of the resignation;

(d) They completed a satisfactory medical, psychological, and physical fitness examination if the Department or the Human Resources Department determines that such an exam is necessary; and,

(e) They are approved for reinstatement by the Department.

A reinstated employee will, upon appointment, begin to accrue seniority rights, vacation eligibility, sick leave, and other Civil Service rights and benefits the same as any other new employee. Service prior to resignation will be included for the purpose of determining the employee's vacation accrual and salary, but will not be considered for purposes such as: fulfilling in-service time requirements for competing in promotional examinations; computing seniority in promotional examinations; determining order of layoffs; determining the order of bids for assignments and vacations; or determining other priorities among employees.

Following reinstatement, an employee will, upon request, have his/her prior service counted for the purpose of reaching the minimum years of service requirement to be eligible for the Accrued Sick Leave Retirement Plan. However, such years of prior service will only be counted after such employee has accumulated sufficient sick leave credits following reinstatement or re-employment to meet the minimum sick leave accrual requirements. Prior years of service shall not be applied to an employee reinstated or re-employed for the second or subsequent time.

Section 16.07 - Appointed Positions

Notwithstanding any provisions of this Agreement to the contrary, the Parties agree that pursuant to the provisions of *Laws 1961*, Chapter 108, Sections 1 through 4 as amended by *Laws 1969*, Chapter 604 and *Laws 1978*, Chapter 580 and the provisions of this Section, the Chief of the Department may appoint three (3) Deputy Chiefs of Police, five (5) Inspectors, the Supervisor of Morals and Narcotics, the Supervisor of Internal Affairs and the Supervisor of License Inspection to perform the duties and services he/she may direct, without examination. The Parties further agree that such persons shall serve at the pleasure of the Chief of Police; and, that any person removed from one of such positions pursuant to *Laws 1969*, Chapter 604, Section 2, has the right to return to his/her permanent civil service classification. Notwithstanding the foregoing, if the law is amended to so allow, the Chief of the Department may appoint up to five (5) Deputy Chiefs and up to eight (8) Inspectors.

ARTICLE 17
HOURS AND SCHEDULING OF WORK

Section 17.01 - Definitions

For the purpose of this Article 17, the following words have the meaning defined below:

(a) "Bid Assignment" means an assignment of more than thirty days in duration to a function in which the primary job duties are: 911 Response, Directed Patrol, a 10-Hour shift Beat Assignment, Recruit or any other assignment that the Chief designates as a Bid Assignment.

(b) "Eligible Employee" means any employee who, as of October 15th of a calendar year:

(1) is a Police Officer who has passed probation or is a Sergeant assigned to supervise Police Officers serving in Bid Assignments; and

(2) is either:

a. assigned to a Bid Assignment; or

b. has been approved to be assigned to a Bid Assignment.

(c) "Discretionary Assignment" is any assignment of more than thirty days in duration to perform any function that does not fall under the scope of a "Bid Assignment."

(d) "Day Watch" shall mean a bid assignment shift which starts between the hours of 0500 and 1200.

(e) "Middle Watch" shall mean a work shift which starts between the hours of 1400 and 1800.

(f) "Dog Watch" shall mean a bid assignment shift which starts between the hours of 1800 and 2100.

(g) "Commencement Date" shall be the first day of the Employer's payroll year.

(h) "Precinct" means a designated precinct, unit or any other group of employees that includes Bid Assignments.

(i) "Inspector" means an employee holding the rank of Inspector and the commander of any Work Group other than a precinct that includes Bid Assignments.

Section 17.02 - Bid Assignments

Subd. 1. Posting
On or before October 15 of each year:

(a) The Chief will notify each Inspector as to the number of Eligible Employees and Bid Assignments that will be allocated to each Precinct for the upcoming bid. The total number of Bid Assignments for employees in the rank of Police Officer shall be not less than seventy percent (70%) of the number of employees in the classification of Police Officer as of the date of posting. The number of Eligible Employees as of the posting date shall be reasonably related to the number of Bid Assignments.

(b) Each Inspector shall post a list of all Bid Assignments available within the precinct during the following Payroll Year. With respect to each Bid Assignment, the schedule shall identify: the "watch" (Day, Middle or Dog); the

starting time of the work shift; and the supervising lieutenant. There may be more than one starting time for shifts within a watch and the number of Bid Assignments allocated to each watch shall be established at the sole discretion of the Inspector.

Subd. 2. Bidding

(a) *Precinct Bid.* The bid shall be conducted in the manner described under this subparagraph (a) for each year in which there is no city-wide bid under subparagraph (b).

Beginning on November 15, each Eligible Employees shall be entitled to bid on all available Bid Assignments within his/her respective Precinct. Bidding will proceed first with Sergeants and then Police Officers based on classification seniority

(b) *City-wide Bid.* Beginning with the bid for the 2018 Commencement Date, and continuing with regard to the bid for a Commencement Date in each even-numbered year thereafter, each Eligible Employee in the rank of Police Officer shall be entitled to bid on any available Bid Assignment throughout the Department based on classification seniority.

Subd. 3. Changes to a Bid

Except as provided in this subdivision, once an Eligible Employee has successfully bid for a Bid Assignment, or an employee has been assigned to a Bid Assignment:

(a) The starting times of the employee's shift shall remain fixed until the next Commencement Date.

(b) The employee shall not be removed from the Bid Assignment unless:

(i) the employee agrees to accept another assignment;

(ii) the employee is transferred or removed by reason of disciplinary action as described in Article 12 or a performance based transfer under Section 17.04, Subd. 2(b);

(iii) The employee is reassigned pursuant to the application of the inverse seniority provisions in this Section 17.02, Subd. 4; or

(iv) The retention of the employee in the assignment would unduly disrupt the operations of the shift to which he/she is assigned.

(v) However, a Sergeant may be transferred from a Bid Assignment when necessary to satisfy the legitimate needs of the Department so long as such transfers are not arbitrary and capricious.

(vi) An employee may also temporarily be reassigned from a Bid Assignment to administrative leave or limited duty status pursuant to the provisions of Sections 26.01, 26.02 and 26.03.

If an employee in a Bid Assignment who was entitled to receive a night shift differential pursuant to Section 13.05 is permanently reassigned (a reassignment to last more than 30 consecutive calendar days) pursuant to the terms of this Section to an assignment that is not eligible for shift differential, such employee shall receive a lump sum payment in an amount equal to 348 hours times the hourly shift differential rate, as specified in the wage schedule appendix, in effect at the time of such assignment. Such payment shall be made regardless of the reason for the reassignment. An employee shall not receive more than one such reassignment payment per bid year.

Subd. 4. Filling Vacant Bid Assignments

(a) When a Bid Assignment becomes vacant, the Employer retains the discretion whether to fill, change or leave the Bid Assignment vacant.

(b) During the first week of each 28-day scheduling period, the Employer shall post city-wide a list of vacant Bid Assignments to be filled.

(c) Any Eligible Employee may submit a request to fill the vacancy on or before the deadline for employees to submit a request for days off for the next scheduling period. The vacancy will be filled by the assignment of the most senior Eligible Employee who submitted a timely request.

(d) If no employee submits a request, the vacancy shall be filled by a transfer pursuant to Section 17.04, Subd. 3(b).

(e) If the vacancy remains after (c) and (d), the Inspector may leave the Bid Assignment vacant or fill the vacancy by inverse seniority among the Police Officers within that precinct or work group or by assignment of any employee working in a Discretionary Assignment.

(f) This subdivision shall not apply with regard to Bid Assignments for Sergeants.

Subd. 5. Transfers into the Precinct or Assignment of New Employees After the Commencement Date

If, after the Commencement Date, an employee transfers into a Precinct to work in a Bid Assignment by any means other than pursuant to Subd. 4 of this Section, the Inspector may assign the employee to any unclaimed vacant Bid Assignment or create a new Bid Assignment for the employee.

Section 17.03 - Discretionary Assignments

Subd. 1. Establishing Discretionary Assignments and Voluntary Details

The Employer has the discretion to:

(a) Establish or eliminate Discretionary Assignments and voluntary details (specialty duties in addition to an employee's regular assignment).

(b) Establish and modify the selection process and the criteria used to select personnel to fill Discretionary and voluntary details.

(c) Establish and modify the:

(i) the duties associated with the assignment;
(ii) the days of the week in a normal work week and the number of hours in the scheduled work day;
(iii) the minimum qualifications or special skills needed to obtain the assignment; and
(iv) the rank which is necessary to obtain the assignment.

(d) Establish and modify the minimum length of service commitment for an employee who volunteers for a Discretionary Assignment or voluntary detail; except that the minimum length of service shall be one (1) year:

(i) for an employee who was involuntarily assigned to a Discretionary Assignment; or
(ii) if the Employer substantially modifies the essential terms and conditions of the Discretionary Assignment or voluntary detail after an employee has accepted the engagement.

For each Discretionary Assignment, the Employer will maintain an "Assignment Description" that includes the information in (a) through (d), above. However, prior to exercising its discretion with regard to items (a) through (d), the Employer will notify the Federation and any employees in the affected discretionary Assignment or voluntary detail at least 30 days in advance of the effective date of such changes. Failure to give notice is not arbitrable.

Subd. 2. Filling Assignments

The Employer may assign an employee to a Discretionary Assignment or voluntary detail as it deems appropriate, subject to the following:

(a) the provisions of Section 17.02 as to employees in Bid Assignments;

(b) the notice and scheduling provisions of this Agreement; and

(c) Police Officers who have not passed probation will not be assigned to Discretionary Assignments or voluntary details.

The Employer will give notice to employees of opportunities for Discretionary Assignments and voluntary details and give consideration to the expressed interests of employees.

Subd. 3. Special Scheduling Considerations

In addition to the provisions of this Article regarding work schedules, the following provisions shall apply to employees in Discretionary Assignments, if applicable.

(a) *Units with multiple watches.* For units or work groups that assign employees to more than one Watch, once per year the employees may, by seniority within the unit, designate their preference for the watch they will work. However, if the Employer needs to assign employees to a watch different from the employee's preference it may do so. If, after the initial designation:

i. the Employer needs to change the number of employees on a watch, it may do so by seeking volunteers or applying inverse unit seniority; or
ii. the Employer needs to change an employee's start time within a watch, it may do so upon 30-days' advance notice to the employee.

(b) *Canine Unit.* On a day for which a canine officer is scheduled to report for duty to his/her assigned position with the Department, the normal work day shall be a scheduled shift of nine (9) consecutive hours of work and one (1) hour of canine maintenance to be performed at the officer's discretion during his/her non-scheduled hours. Each canine officer shall also perform one (1) hour of canine maintenance each day at his/her discretion that his/her canine partner is in his/her custody even if the officer is not scheduled to work on that day. Accordingly, when a canine officer is excused from a scheduled work day by reason of using his/her accumulated sick leave, vacation or comp time on a day during which he/she will still perform canine maintenance duties, his/her respective account balance shall be reduced by nine (9) hours.

Subd. 4. Reassignment From Discretionary Assignments and Voluntary Details

Reassignment from a Discretionary Assignment or removal from a voluntary detail shall be made according the same provisions applicable to transfers under Section 17.04, subject to the following:

a) The Employer shall honor a request by a Police Officer to return to a Bid Assignment from a Discretionary Assignment so that the employee will be considered an "Eligible Employee" provided the employee has:
i. fulfilled his/her minimum service requirement; and
ii. given notice of desire to return to a Bid Assignment at least 60 days prior to the posting of Bid Assignments.

If a suitably trained replacement is not available prior to the Commencement Date, the employee shall still be allowed to bid for a Bid Assignment but the reassignment to the Bid Assignment may be delayed until after the Commencement Date if required by the legitimate business needs of the Employer.

b) An employee who has completed the minimum length of service commitment for a voluntary detail may notify the Department of his/her intention to resign from the voluntary detail at any time. The Department will honor such request and relieve the employee of the duties associated with the voluntary detail within one year of such written notice.

c) The Employer, in its sole discretion, may waive the minimum length of service requirement for any Discretionary Assignment or voluntary detail.

Section 17.04 - Transfers

A "transfer" is the change, for a period of more than 30 days, of an employee's assignment to a precinct, unit or other work group.

Subd. 1. Transfer of Employees in Discretionary Assignments Initiated by the Employer

Subject to the notice requirements of this Article 17, the Employer may, as it deems necessary, transfer an employee serving in a Discretionary Assignment to any Bid or Discretionary Assignment. The Department agrees that, upon the request of an employee, it will advise the employee of the reason for such action.

Subd. 2. Transfer of Police Officers in Bid Assignment Initiated by the Employer

(a) Police Officers in a Bid Assignment may be transferred subject to the provisions of Section 17.02, Subd. 3(b).

(b) The Employer may transfer a Police Officer to another Bid Assignment based on articulable performance issues as provided in this paragraph (b). The types of issues which form the basis for a transfer under this provision may include, but are not limited to:

- Behavioral/attitude changes
- Conflicts with supervisors/co-workers
- Increase in complaints against the employee
- Increase in unexplained absenteeism/use of sick leave
- Placement of an employee on a Performance Improvement Plan (PIP)

Before a transfer is made, the employee's direct supervisor, or another supervisor after consulting with the direct supervisor, will meet with the employee to discuss the performance issues. If the supervisor determines that a transfer may be appropriate under the circumstances, the supervisor will give the employee written notice as to: the issues that require correction; a reasonable period for the employee to make the needed corrections; and that he/she may be transferred if the issues are not corrected within the specified period. The notice is not required if the employee agrees to a transfer.

Either the supervisor or the employee may request Federation participation in the initial meeting and any follow-up meetings.

A transfer under this paragraph is not grievable, except that the grievance procedure may be used for the limited purpose of challenging whether there are any articulable performance issues and/or whether the employee was given the required notice.

A transfer under this paragraph neither precludes the imposition of discipline for just cause nor limits management's rights to transfer an employee in a Bid Assignment under Section 17.02, Subd. 3(b).

A transfer under this paragraph will be documented and included in the employee's personnel record and the supervisor(s) in the employee's new assignment will be given appropriate notice of the circumstances surrounding the transfer.

Subd. 3. Transfers Initiated By the Employee

The Employer acknowledges that its policy is to use reasonable efforts to accommodate a transfer request by an employee, subject to the following and other applicable terms of this Agreement.

(a) With regard to supervisory personnel (those serving in the rank of Sergeant and above), nothing shall give the employee an absolute right to transfer from one assignment to another and the Employer is under no obligation to grant a transfer request.

(b) With regard to personnel having the rank of Police Officer, the Department will generally honor a transfer request provided that the employee has satisfied any applicable minimum length of service requirements in his/her present assignment and the transfer will not unduly disrupt the operations of the Department. As an additional measure to facilitate transfers, the Federation will maintain a transfer request list for each precinct. An employee may place his/her name, and any two employees may place their names together, on the transfer list on a "first come, first serve" basis. When a Bid Assignment posted as vacant is not claimed under Section 17.02, Subd. 4(c), transfer offers will be made to from such transfer list. If an employee(s) declines a transfer offer, his/her/their name(s) shall be removed from the list. An employee(s) may remove his/her/their name(s) from the list at any time. If an employee(s) declines a transfer offer, his/her/their name(s) shall be removed from the list. An employee may only be on one transfer list at a time.

(c) The Employer, in its sole discretion, may waive the minimum length of service requirement for any Discretionary Assignment.

Subd. 4. Minneapolis Park Police Department

A Park Police officer may be hired as a Minneapolis Police Officer under Section 13.08 ("Prior Sworn Law Enforcement Experience") but may not transfer from the Minneapolis Park Police Department ("Park Police") to the MPD regardless of any provision of the City Charter, Ordinances or Civil Service Rules to the contrary.

ARTICLE 18
WORK SCHEDULES

Section 18.01 - Normal Workday and Work Period

a. The normal workday shall be a shift of either eight (8) or ten (10) consecutive hours of work. The Employer shall have the discretion to determine whether the normal workday for a specific assignment shall be eight (8) or ten (10) hours, except that the normal workday for all Bid Assignments shall be ten (10) hours.

b. The normal work period shall be one hundred sixty (160) hours of work in each twenty-eight (28) day scheduling period.

Section 18.02 - Work Schedules

a. The Employer shall create a work schedule for all employees covered by this Agreement showing their assigned shift, the starting time therefore, their scheduled work days and their scheduled days off for the ensuing 28-day scheduling period. The following principles shall apply with regard to establishing the schedule:

1. For employees working a normal workday of ten hours, each scheduling period shall include 16 days of work and 12 days off.

2. For employees working an assignment for which the normal workday is eight hours, each scheduling period shall include 20 days of work and 8 days off.

3. When a holiday falls within the 28-day scheduling period, the number of scheduled days of work during the scheduling period shall be reduced by one for each such holiday.

4. Reasonable consideration shall be given to employee requests for days off consistent with the needs of the Department. To be considered, however, an employee must submit his/her request not less than fifteen (15) days before the beginning of the next scheduling period.

b. Work schedules shall be posted no later than 0001 hours on the tenth (10th) calendar day prior to the beginning of the scheduling period.

Section 18.03 - Temporary Change in Shifts

The Department shall have the right to temporarily depart from an officer's bid shift (hours of work), if applicable, and his/her posted 28-day work schedule subject to the following:

Subd. 1. General Rules Governing Change in Shift/Work Schedule

a. When a change to an employee's work schedule is to be made, the Department shall attempt to provide the employee with as much advance notice as is possible and a minimum of eight (8) off-duty hours between work assignments.

b. Such temporary changes in an employee's shift shall not normally exceed thirty (30) calendar days.

c. Nothing in this Article shall be construed as a limitation or restriction upon the Department respecting the scheduling of employees and/or the operation of the Department in Public Safety emergency situations as declared by the Chief of Police or the Mayor of the City of Minneapolis.

d. Compensation.

1. *Employees in a Bid Assignment.* For employees in a Bid Assignment, hours worked that are different from the employee's bid shift (including any hours which would have fallen within the posted schedule had no such departure been made) shall be compensated at the overtime rate as provided in Section 20.02.

2. *Employees in a Discretionary Assignment.* For employees in a Discretionary Assignment, hours worked that are different from the employee's posted 28-day work schedule (including any hours which would have fallen within the posted schedule had no such departure been made) shall be compensated at the overtime rate as provided in Section 20.02.

3. *Limitation on Compensation With 14-Days' Advance Notice.* When the employer changes the hours of work for a block of consecutive scheduled work days after the posting of the 28-day schedule for reasons other than training or a voluntary change, the change of shift compensation shall be payable only for the first day of the block of consecutive work days provided the employer gives the employee written notice of the change not less than 14 days in advance.

4. *Change of Shift Compensation Paid in Cash.* All change of shift compensation shall be payable in cash. An employee may not elect to be compensated in compensatory time for change of shift compensation. However, if an employee otherwise becomes entitled to overtime for working hours departing from the changed work schedule, such overtime shall be subject to all provisions of Article 20.

Subd. 2. Exceptions to the General Rule – Special Circumstances

a. Training

1. *Prior to Posting Schedule.* If the Employer gives an employee written notice of a change in the employee's normal hours of work prior to the posting of the 28-day work schedule, there shall be no compensation if the change is to accommodate required training for the employee.

2. *After Posting Schedule.* After the 28-day schedule is posted, the employer may change the hours of work on a scheduled work day without compensation to accommodate required training for the employee,

provided the employer gives the employee at least 14 days advance written notice.

b. Voluntary Changes

1. No change of shift compensation is payable for changing an employee's hours of work or days of work if the change is voluntary. "Voluntary" means: a request initiated by an employee; or a request initiated by the employer for which an employee may decline without sanction.

2. Changes for "Career Enrichment Assignments" are considered voluntary.

3. The employer shall grant a shift-change request made by an employee who is on limited duty status resulting from a qualified IOD injury when such request is to allow the employee to attend physical therapy or a medical appointment relating to the injury during on-duty time.

c. Fitness for Duty. Where an unplanned and immediate temporary change in shift is made necessary because of issues relating to the employee's physical or mental fitness for duty, the Department may, at its sole discretion:

1. change the employee's assignment and work schedule and pay the compensation specified in the Section 18.03, Subd. 1;

2. change the employee's assignment using the same hours as specified on the employee's posted schedule thereby avoiding the obligation to pay additional compensation; or

3. offer the employee another assignment with different hours which, if accepted, would be considered a voluntary change in shift for which no additional compensation is payable. If the Employee declines such offer, he/she may take unpaid leave or paid leave to the extent of the employee's applicable accrued benefits.

d. Investigations. Where an unplanned and immediate temporary change in shift is made necessary because the employee is under investigation for alleged misconduct, the Department may, at its sole discretion:

1. change the employee's assignment and work schedule and pay the compensation specified in the above Section 18.03, Subd. 1;

2. change the employee's assignment using the same hours as specified on the employee's posted schedule thereby avoiding the obligation to pay additional compensation; or

3. offer the employee another assignment with different hours which, if accepted, would be considered a voluntary change in shift for which no

additional compensation is payable. If the Employee declines such offer, he/she may take unpaid leave or paid leave to the extent of the employee's applicable accrued benefits.

Any compensation payable under this Section 18.03, Subd. 2(d) may be held in abeyance until the conclusion of the investigation and the final resolution of any resulting disciplinary action. If a disciplinary action resulting in a penalty more severe than a letter of reprimand is sustained, the Department shall be relieved of any obligation to pay such compensation.

ARTICLE 19
NEW HIRES AND PROMOTIONS

Section 19.01 - Probationary Period for New Hires

While assigned and compensated as a "recruit", a Police Officer shall always be on probation and shall be limited to those duties directed and assigned by the Chief. Upon successful completion of the Recruit Academy, or upon initial hire through the Lateral Hiring Process in Section 13.08, an employee shall serve a probationary period of twelve (12) full months of actual work.

Section 19.02 - Promotions

a. *Examinations.* Promotional examinations, as defined in Civil Service Rule 6.05, shall be offered to current sworn employees in the classified service who meet minimum qualifications to compete for promotion to the classes of sergeant, lieutenant or captain. Promotional examinations under the Civil Service Rules shall not be required for promotion to the class of Commander. The Human Resources (HR) Department shall be responsible for developing job-related examination components for all promotional examinations. In doing so, the HR Department will involve the police administration and the Federation to ensure the components consist of bona fide occupational qualifications. Examinations may consist of one or more of the following components: written test, oral interview, rating of education, skills, and/or experience, practical/work sample, performance history, physical performance, or other components so long as they have been discussed with the police administration and the Federation. The HR Department retains the discretion to establish the examination components and the relative weight of each component. The candidates advancing to successive components in the examination may be restricted to the most highly qualified candidates. Once the components and/or criteria are posted and applications are received, the Employer shall not deviate from the declaration without a legitimate business reason and after providing proper notice and rationale to the Federation for comment and to the candidates. Matters related to unilateral changes in the criteria and/or components after receiving applications shall be subject to Expedited Arbitration as defined in Section 11.06, notwithstanding the "mutual agreement" provisions.

b. *Disqualification.* The Human Resources Department may refuse to examine, refuse to certify, or remove from a list of eligible candidates an individual in accordance with the provisions of Civil Service Rules 6.12 and 7.04

c. *Ties.* Whenever two or more candidates have the same score on the overall examination, the

Human Resources Department may break the tie in accordance with the provisions of Civil Service Rule 6.13.

d. *Eligibility Lists.* The Human Resources Department may determine the expiration date of a list of eligible candidates for the classes of sergeant, lieutenant and captain. The expiration date for the list of eligible candidates shall be provided on the job posting for these classes.

e. *Ranking of Eligible Candidates.* Eligible candidates for the classifications of sergeant, lieutenant and captain shall be ranked from highest to lowest based upon their composite examination score.

f. *Certification; Rule of 3.* Upon receiving a requisition to fill a vacancy, the Human Resources Department will certify and send to the Department the names of the three top-ranking eligible candidates for a single vacancy and one additional person by rank order for each additional vacancy. Certification shall be made first from a layoff list generated from abolishment of a position, then from a medical layoff list and then from the examination list.

g. *Probation.* Employees promoted to a different job class must serve a probationary period of six months of actual work in the promoted class. Completion of probation requires working six full months under the direct control and supervision of an MPD supervisor. However, temporary service in a position immediately preceding certification to that position, without interruption, shall count towards satisfaction of the probationary period. When an employee is promoted to the rank of Sergeant, the employee shall complete a three (3) month orientation program before the probationary period begins. The purpose of the orientation program is to provide the employee with an introduction to duties he/she may be assigned to perform in the rank of Sergeant but may not have experienced while a Police Officer. As a component of the orientation program, the employee shall serve at least one month in an assignment where the primary duties are investigations and at least one month in an assignment where the primary duties are supervising Police Officers.

Because the promotion or change to a different job class requires employees to demonstrate different job skills or assume additional responsibilities, their job performance in the new classification is to be evaluated by the Department as if they were new employees. Employees who demonstrate inappropriate conduct or are substandard in the performance of their new responsibilities are subject to removal and reassignment to the classification in which they served before promotion. Such action taken prior to the completion of probation is not grievable.

However, employees who exhibit misconduct or who are substandard in the performance of their responsibilities for reasons which would also affect their performance in the prior job may be subject to disciplinary action up to discharge. Permanent employees may grieve such actions.

Section 19.03 - Promotional Exams

When an employee is scheduled to take a Minneapolis Civil Service promotional examination during his or her regular scheduled hours of duty, the City shall grant reasonable time off to take the examination

except in emergencies as declared by the Chief of Police and the Mayor of Minneapolis. If such an emergency occurs, the City shall request the Civil Service Commission to reschedule the examination.

ARTICLE 20
OVERTIME

Section 20.01 - Overtime

This Article is intended to define and provide the basis for the calculation of overtime pay or compensatory time off, as applicable. Nothing herein shall be construed as a guarantee of overtime work. All employees may be required to work overtime.

Section 20.02 - Overtime and Overtime Pay

Subd. 1. Definition of Overtime

Overtime is defined as any hours of work which deviate from an employee's posted work schedule as described in Section 18.02 of this Agreement unless such deviation is voluntary on the part of the employee or is made necessary by required training activities as provided under Section 18.03, Subd. 2(a) (*Temporary Change in Shifts*).

Subd. 2. General Rules for Overtime Work

(a) All overtime, with the exception of off-duty arrest and extension of duty to perform required job functions, must be approved prior to the employee working the overtime.

(b) When an employee requests compensation for overtime worked and the Employer disputes whether the employee is entitled to compensation for such hours or to compensation for such hours at the overtime rate, the Employer shall notify the employee of the denial of the compensation request. The Employer shall not change an employee's hours in the timekeeping or payroll system without timely notice to the employee.

(c) The department does not generally allow officers of a higher rank to work in an overtime capacity for officers of a lower rank. However, in instances where it becomes necessary for an officer to backfill for an officer in a lower rank taking compensatory time off under Section 20.02, Subd. 5, the officer of higher rank shall always be compensated in cash at 1.5 times the hourly rate for the top step of the wage schedule for the rank of the position being filled.

Subd. 3. Overtime Compensation

(a) *Employee Discretion.* Except as otherwise specified in this Article, an employee shall be entitled to elect to receive compensatory time off in lieu of cash payment for overtime at any time the employee's compensatory time bank is fifty (50) hours or less.

When an employee works overtime for which the employee may elect to be compensated in cash or compensatory time off:

i. If the employee elects cash, he/she shall be compensated for such overtime at the rate of one and one-half (1½) times the employee's regular hourly rate.

ii. If the employee elects compensatory time, one and one-half (1½) hours of compensatory time shall be accrued for each hour of overtime worked.

(b) *Employer Discretion.* If the employee's compensatory time bank is more than fifty (50) hours, the Employer shall have the discretion to decide whether to grant or deny a request to receive additional compensatory time off for overtime work.

Subd. 4. Payment of Accumulated Compensatory Time

When an employee is promoted to the rank of lieutenant or above, the Employer, in its sole discretion, may liquidate all or any portion of the employee's entire compensatory time bank by paying the employee such hours at his/her current hourly rate (the rate in effect immediately prior to the promotion). When an employee separates from service, the Employer shall liquidate all of the employee's entire compensatory time bank by paying the employee for such hours at his/her current hourly rate (the rate in effect immediately prior to separation).

Subd. 5. Taking Compensatory Time Off

(a) *Prior to Scheduling Deadline.* Except as provided in subparagraph (d), below, an employee who gives notice of the intent to use compensatory time at prior to the deadline for requesting days off shall be granted compensatory time off in increments of a full shift on the requested date(s) without regard to whether granting such request would cause the employee's shift, precinct, unit or division to fall below the Department's minimum staffing levels.

(b) *After Scheduling Deadline.* Except as provided in subparagraph (d), a request under this subparagraph (b) shall be granted to an employee under the following conditions:

i. the employee has given notice of the intent to use compensatory time at least seven (7) days prior to the requested day off;
ii. the request is for a single full shift or not more than two non-consecutive full shifts;
iii. an employee shall not be granted more than two shifts off under this paragraph (b) within the 28-day scheduling cycle;
iv. the request will not cause the employee's shift, precinct, unit or division to fall below the lesser of: one below the minimum staffing level for the requested shift as noted on the posted schedule; or one below the scheduled staffing for the requested shift as noted on the posted schedule.

Even if the conditions in subparagraphs i. through iii. are satisfied, approval of a compensatory time off request is not required if scheduled staffing is below minimum staffing because of absences caused by the use of compensatory time or Federation time.

(c) *Supervisor Discretion.* The Employer retains the sole discretion to grant or deny requests to take compensatory time off when the request is made:

- after the employee has already been granted two requests made after the posting of the 28-day schedule but 7 days in advance; or
- on less than 7 days' advance notice; or
- for less than a full shift off; or
- when the request would reduce staffing below the levels referenced in paragraph (b).

However, it is the policy of the Employer to accommodate requests for compensatory time off when granting such request would not cause the employee's shift, precinct, unit or division to fall below the Department's consistently applied minimum staffing levels.

(d) *Exception.* An advance request for compensatory time off may be denied for days on which days off and vacations have been cancelled for all of the personnel in the employee's shift, precinct, unit or division.

Section 20.03 - Special Overtime Practices

Subd. 1. Filling Shifts For Employees Using Compensatory Time.

Overtime worked by an employee to backfill for another employee who is using compensatory time off shall always be compensated in cash.

Subd. 2. Call-Back Minimum

Employees called to work during scheduled off-duty hours shall be compensated at the rate of one and one-half (1½) hours for each hour worked with a minimum of four (4) hours' earned for each such call to work. The minimum of four (4) hours shall not apply when such a call to work is an extension of or early report to a scheduled shift. This provision shall not apply to situations arising out of Section 18.03, *Temporary Change in Shifts*.

Subd. 3. Standby

Employees properly authorized and required by Department rules to standby for duty shall be compensated at the rate of one (1) times the regular hourly rate, except as specified in Subd. 4 or the attached Memorandum of Agreement regarding standby status for specialized investigators. Time shall be calculated to the nearest one-half (½) hour. If standby status is canceled prior to 6:00 p.m. on the day preceding the scheduled standby status, the Department shall not be obligated to compensate an employee for standby status. If standby status is canceled after 6:00 p.m. on the day preceding the scheduled standby status, but before 9:00 a.m. on the day of the scheduled standby status, the Department shall be required to compensate the employee for one (1) hour of standby. If standby status is canceled after 9:00 a.m. on the day of the scheduled standby status, the Department shall be required

to compensate the employee for the greater of: two (2) hours of standby; or the compensation specified under this Subd. 3 for time actually served on standby status.

The City shall have three business days to approve or deny the Officer's request for compensation. If not denied within three business days of an Officer's request for any court related compensation, such compensation shall be deemed approved.

Subd. 4. Court, Court Standby, OPCR and Preparation

a. *Court and OPCR.* Employees will be compensated for all time required in court or proceedings of the Civilian Review Authority, including time required in *standby* status in anticipation of such appearances when:

i. The court case is within the scope of the employee's employment and the employee is under subpoena or trial notice for the appearance, a copy of which has been provided to the Department; or

ii. The employee's appearance is required by the OPCR.

Such compensation shall be at the overtime rate for hours that occur outside the employee's posted work schedule. The form of compensation for hours compensable at the overtime rate shall governed by Section 20.02, Subd. 3.

b. *Consultation with Attorneys.* An employee will be permitted necessary time in consultation with attorneys while on-duty, provided the case is within the scope of the employee's employment and, prior approval of such on-duty consultation is received from the employee's immediate supervisor. Employees shall be compensated for all off-duty time spent in consultation with attorneys where:

i. The City (i.e., the Minneapolis City Attorney, an involved county attorney and/or federal authority) requires the employee's attendance at such meeting, and

ii. The consultation cannot reasonable be rescheduled to the involved employee's normal on-duty hours, and

iii. The same *scope of employment* and *prior approval* criteria outlined in Paragraph b., above, are satisfied.

Subd. 5. Employees Serving in Other Agencies by Contract

The City may enter into an agreement with other law enforcement agencies or other governmental agencies, for the purpose of authorizing employees covered under this Agreement to provide services at the direction of such other agency. An employee who participates in such a program remains an employee of the City. Therefore, such an employee is subject to the rules and regulations of the Department and is entitled to the rights and benefits of this Agreement; except as follows:

a. such assignment shall be considered "voluntary" so that the scheduling and shift change provisions of Sections 18.02 and 18.03 shall not apply; and

b. the employee shall obtain prior approval of his/her supervisor in the Minneapolis Police Department before working overtime which would result in compensation to the employee in excess of any amount for which the agency to which he/she is assigned is obligated by contract to reimburse the City.

c. All overtime earned in conjunction with such assignment shall be compensated in cash.

Subd. 6. Field Training Officers

An employee who serves as a Field Training Officer (FTO) shall receive compensation for the duties associated with the FTO assignment, in addition to the employee's regular compensation for the hours actually worked, for each work day or part thereof in which he/she/she acts as an FTO with the responsibilities for reporting on the performance of the trainee. The employee may elect to be compensated for each FTO day by either: one and one-quarter (1¼) hours of compensatory time; or two (2) hours cash compensation at his/her regular hourly rate. Such election shall be made at the beginning of the FTO program, or as soon thereafter as is practical, and shall be irrevocable for the duration of the FTO program for that class of recruits. The Department will attempt to staff its FTO program with volunteers, but reserves the right to reject a volunteer who it determines is not appropriate to serve as an FTO and to assign employees to FTO duties if the needs of the Department cannot be fully staffed by volunteers. The Department will use its best efforts to reasonably limit the number of consecutive months during which it will involuntarily assign an employee to FTO duties.

Subd. 7. Buy-Back Policing

Participation in the Department's *Buy-Back* is voluntary. An employee who works buy back shall be paid cash compensation for all hours worked therein at one and one-half (1 ½) times the employee's regular hourly rate or, if working under the contract between Hennepin County and the Department for the detox van or a contract between the Department and an officially recognized community organization under the Neighborhood Revitalization Program, the rate specified in such contract.

For purposes of this unique overtime practice, Buy-Back Policing shall mean community crime prevention, special investigative, and other law enforcement activities normally within the scope of the authority conferred upon the Department by the City Charter. Additional activities may be added only upon the express written agreement of the Parties.

Buy-back opportunities shall be available to all employees in the ranks of Police Officer, Sergeant and Lieutenant on a non-discriminatory, consistent basis. Each precinct shall maintain a system of posting buy-back opportunities that includes a description of the duties and the available dates and times so that any interested and eligible employee can sign-up for such duties. The employer shall designate a precinct affiliation for non-precinct employees who desire to work buy-back assignments. Buy-back assignments shall be available, subject to reasonable restrictions to ensure fairness to all eligible employees, on a "first-come, first-served" basis among the employees working at or affiliated with the posting precinct. If the buy-back assignments cannot be filled from within the precinct, the

employer may fill such assignments by providing an equal opportunity for volunteers from outside the precinct.

Subd. 8. Canine Maintenance Compensation

a. *Canine Maintenance Premium.* As compensation for the additional canine maintenance duties associated with the assignment to canine officer, an employee who serves as a canine officer shall be paid in cash as follows with regard to the one (1) hour of required canine maintenance: on a day on which a canine officer is scheduled to work, the one (1) hour shall be paid at straight time (one times the officer's regular hourly rate); and on a day that the officer is not scheduled to work, the officer shall be paid at the premium rate of one and one-quarter (1 ¼) times the officer's regular hourly rate.

b. *Veterinary Care.* Time spent in obtaining veterinary care for a canine shall be treated as hours worked. A canine officer shall use his/her best efforts to arrange for veterinary care during his/her scheduled duty time. However, if the time of day during which the officer is obtaining veterinary care departs from his/her posted work schedule, such departure shall be considered as a "voluntary change of shift" under Section 18.03, Subd. 2(b) of the Labor Agreement.

c. *Canine Squad Cars.* The parties acknowledge that to facilitate transportation of a canine and to provide an additional benefit to canine officers for canine maintenance at home and during off-duty hours, canine officers shall be provided with a squad car that may be used to transport the officer and his/her canine between work and home. The Department retains the discretion to determine the type of vehicle and the equipment installed thereon, except that the vehicle and equipment shall be consistent with Department standards for use in marked patrol and 911 response.

Subd. 9. Holidays

When an employee works "overtime," as defined by Section 20.02, Subd. 1, on one of the "Major Holidays" as defined by Section 23.03, or as an extension of a shift that begins on a Major Holiday; the effective rate of pay for such overtime hours is 2.25 times the employee's normal (non-holiday) hourly rate. The employee may, subject to the provisions of Section 20.02, elect to receive cash or compensatory time for overtime worked on a holiday.

Section 20.04 - No Duplication of Overtime

Compensation shall not be paid more than once for the same hours under any provision of this Agreement.

ARTICLE 21
LAYOFF AND RECALL FROM LAYOFF

Section 21.01 - Layoffs and Bumping

Whenever it becomes necessary because of lack of funds or lack of work to reduce the number of employees in any rank, the Chief of Police shall immediately report such pending layoffs to the City Coordinator or his/her designated representative. The status of involved employees shall be determined by the following provisions and the involved employees will be notified.

Definitions.

1. A "lay off" is when an employee loses his/her position due to a lack of funds or work even if the action results in the demotion of the employee rather than interruption of his/her employment.

2. "Bumping" is when an employee who is laid off exercises his/her right to take a position in a lower rank from an employee with less Classification seniority.

Subd. 1. General Order of Layoff

Layoffs shall be made in the following manner:

(1) *Permit* employees shall be first laid off;

(2) Temporary employees (those certified to temporary positions) shall next be laid off;

(3) Persons appointed to permanent positions shall then be laid off.

Subd. 2. Layoff Based on Classification Seniority

The employee first laid off shall be the employee who has the least amount of classification seniority in the rank in which reductions are to be made. Provided, however, employees retained must be deemed qualified to perform the required work and employees who possess unique skills or qualifications which would otherwise be denied the Employer may be retained regardless of their relative seniority standing.

Subd. 3. Bumping

Employees above the rank of Police Officer who are laid off shall have their names placed on a demotion list for their classification. Such employees who have at least two (2) years of City seniority shall have the right to displace (*bump*) the employee of lesser City seniority who was last certified to the next lower rank previously held permanently by the laid off employee. If the laid off employee cannot properly displace any employee in the next lower rank, such laid off employee shall have the right to displace (bump) the employee of lesser City seniority who was the last certified to progressively lower ranks previously held permanently by the laid off employee and in which job performance was deemed by the Employer to be satisfactory. In all cases, however, the bumping employee must meet the current minimum qualifications of the claimed position and must be qualified to perform the required work.

Section 21.02 - Notice of Layoff
The Employer shall make every reasonable effort under the circumstances to provide affected employees with at least fourteen (14) calendar days' notice prior to the contemplated effective date of a layoff.

Section 21.03 - Recall from Layoff
A Police Officer who has been laid off may be reemployed without examination in a vacant position of the same rank within three (3) years of the effective date of the layoff. Failure to receive an appointment within three (3) years will result in the eligible's name being removed from the layoff list. However, the eligibility of an employee on the layoff list shall be extended for a period of military service while laid off upon notice to the Employer by the employee of such military service. An employee who was laid off and had his/her name placed on a demotion list shall be entitled to return to the job classification from which he/she was laid off before a vacancy in such job classification is filled from a promotional list.

Section 21.04 - Effect on Appointed Positions
Employees who hold a rank within the classified service but are serving in an unclassified or appointed position within the City cannot be displaced (*bumped*) within the meaning of this Article by other bargaining unit employees during the time such employees hold their appointed positions. Subject to the provisions of Section 12.05, in the event such a person is removed (un-appointed) from his/her appointed position he/she shall have the right to return to his/her last-held civil service rank. The return of such person shall not result in the removal (bumping) of another person in such rank. To the extent such removal causes there to be an excess above the authorized strength at such rank, the excess shall be reduced through attrition. Notwithstanding the foregoing, if a Commander is removed by reason of the elimination of a Commander position(s) as part of a department-wide reduction in staffing that includes a reduction in the number of personnel in the ranks of Lieutenant, Sergeant and/or Police Officer due to budgetary reasons, the "attrition" requirement of the preceding sentence shall not apply.

Section 21.05 - Exceptions
The following exceptions may be observed:

(a) Mutual Agreement. If the Employer and the Federation agree upon a basis for layoff and reemployment in a certain position or group of positions and such agreement is approved by the City Coordinator or his/her designated representative, employees will be laid off and reemployed upon that basis.

a. Emergency Retention. Regardless of the priority of layoff, an employee may be retained on an emergency basis for up to fourteen (14) calendar days longer to complete an assignment.

ARTICLE 22
VACATIONS

Section 22.01 - Eligibility: Full-Time Employees

Vacations with pay shall be granted to permanent employees who work one-half (½) time or more. Vacation time will be determined on the basis of continuous years of service, including time in a classified or unclassified position immediately preceding appointment or reappointment to a classified position. For purposes of this Article, *continuous years of service* shall be determined in accordance with the following:

(a) Credit During Authorized Leaves of Absence. Time on authorized leave of absence without pay, except to serve in an unclassified position, shall not be credited toward years of service, but neither shall it be considered to interrupt the periods of employment before and after leave of absence, provided an employee has accepted employment to the first available position upon expiration of the authorized leave of absence.

(b) Credit During Involuntary Layoffs. Employees who have been involuntarily laid off shall be considered to have been continuously employed if they accept employment to the first available position. Any absence of twelve (12) consecutive months will not be counted toward years of service for vacation entitlement.

(c) Credit During Periods on Disability Pension. Upon return to work, employees shall be credited for time served on workers' compensation or disability pension as the result of disability incurred on the job. Such time shall be used for the purpose of determining the amount of vacation to which they are entitled each year thereafter.

(d) Credit During Military Leaves of Absence. Employees returning from approved military leaves of absence shall be entitled to vacation credit as provided in applicable Minnesota statutes.

Section 22.02 - Vacation Benefit Levels

Eligible employees shall earn vacations with pay in accordance with the following schedule:

EMPLOYEE'S CREDITED CONTINUOUS SERVICE	VACATION HOURS PER YEAR
1 - 4 Years	96
5 - 7 Years	120
8 - 9 Years	128
10 - 15 Years	144
16 - 17 Years	168
18 - 20 Years	176
21 or more Years	208

Section 22.03 - Vacation Accruals and Calculation

The following shall be applicable to the accrual and usage of accrued vacation benefits:

a. Accruals and Maximum Accruals. Vacation benefits shall be calculated on a direct proportion basis for all hours of credited work other than overtime and without regard to the calendar year. Benefits may be cumulative up to and including four hundred (400) hours. Accrued benefits in excess of four hundred (400) hours shall not be recorded and shall be considered lost.

b. Negative Accruals Permitted. Employees certified to permanent positions shall be allowed to accrue a negative balance in their vacation account. Such amount shall not exceed the anticipated earnings for the immediately succeeding twelve (12) month period. The anniversary date for increase in such employee's vacation allowance shall be January 1, of the year in which the employee's benefit level is changed. Employees separating from the service will be required to refund vacation used in excess of accrual at the time of separation, if any. Effective upon ratification by both parties, this provision shall be repealed and negative vacation accruals shall no longer be allowed. The Employer shall develop and implement a plan to reduce negative balances to zero with input from the Federation.

c. Vacation Usage and Charges Against Accruals. Vacation shall begin on the first working day an employee is absent from duty. When said vacation includes a holiday, the holiday will not be considered as one of the vacation days.

d. Vacation Credit Pay. All bargaining unit employees shall be entitled to elect to receive compensation for vacation time that will be earned in the subsequent year in accordance with the terms of this paragraph. Not less than thirty (30) days prior to the beginning of the payroll year during which the vacation subject to such election is accrued (hereafter the "Accrual Year"):

   i. All employees may elect to receive payment for up to forty (40) hours of vacation time that will be accrued during the Accrual Year.

   ii. Effective with regard to the 2017 election to receive payment for vacation to be accrued during 2018, and continuing thereafter; employees who accrue at least 128 hours per year or who have at least 120 hours in their vacation account as of the time of the election may elect to receive payment for up to eighty (80) hours of vacation time that will be accrued during the Accrual Year.

Such election, once made, shall be irrevocable. Thus, the hours elected for compensation shall not be eligible for use as vacation. Payment to the employee who has elected to receive payment shall be based on the employee's regular base rate of pay in effect on December 31 of the Accrual Year. The vacation credit pay shall be paid to the employee within sixty (60) days after the end of the Accrual Year. Employees, at their sole option, may authorize and direct the Employer to deposit vacation credit pay to a deferred

compensation plan administered by the Employer provided such option is exercised in a manner consistent with the provisions governing regular changes in deferred compensation payroll deductions.

Section 22.04 - Vacation Pay Rates

Subd. 1. Normal

The rate of pay for vacations shall be the rate of pay employees would receive had they been working at the position to which they have been permanently certified, except as provided in Subd. 2, below.

Subd. 2. Detailed Employees

Employees on *detail* (working out of class) for a period of less than thirty (30) calendar days immediately prior to vacation will be paid upon the basis of the position to which they have been permanently certified. Employees on detail for more than thirty (30) calendar days immediately prior to vacation will be paid upon the basis of the position to which they have been detailed.

Section 22.05 - Scheduling Vacations

Vacations are to be scheduled in advance and taken at such reasonable times as approved by the employee's immediate supervisor with particular regard for the needs of the Employer, the seniority of employee in his/her rank, and, insofar as practicable, the wishes of the employee. No vacation shall be assigned by the Employer or deducted from the employee's account as disciplinary action. Effective upon ratification of this Agreement by both parties, a vacation request may only be approved to the extent that the employee has sufficient time in his/her vacation account.

Section 22.06 - Payment for Unused Vacation on Separation

The value of any vacation balance due upon voluntary separation shall be deposited into the employees Post Employment Health Care Savings Plan, as established in Minn. Stat. §352.98 as administered by the Minnesota State Retirement System.

ARTICLE 23
HOLIDAYS

Section 23.01 – General

Subd. 1. Holidays

Each permanent, full-time employee shall be entitled to eleven (11) days' leave per year in lieu of taking holidays off with pay. Such Holiday Leave will be used as directed by the Chief of Police in the current year giving reasonable consideration to the request of the employee. The days observed as paid holidays for all permanent, full-time employees are as follows:

New Year's Day
Martin Luther King, Jr. Day
President's Day
Memorial Day
Independence Day

Labor Day
Indigeonous Peoples Day (Columbus Day)
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day

The employer retains the right to require employees to work on holidays. If an employee is scheduled to work on the holiday, the employer shall schedule a day off with pay as an alternate holiday for the employee during the same 28-day scheduling period as the actual holiday. At the employer's sole discretion, it may pay the employee in cash for one normal workday in lieu of scheduling an alternate day off.

Employees who are eligible for holiday pay shall also receive two (2) floating holidays per calendar year. Floating holidays may not be carried over if not used during the calendar year.

Subd. 2. Federation Leave

In lieu of an additional holiday for employees, the Employer will donate time to the Federation's Donated Time Account referenced in Section 25.03(g)(6) for each employee of record as of the first day of the first payroll period of each year as follows:

10 hours for each Police Officer
8 hours for each Sergeant
8 hours for each Lieutenant

Section 23.02 - Religious Holidays

An employee may observe religious holidays which do not fall on the employee's regularly scheduled day off. Such religious holidays shall be taken off without pay unless: 1) the employee has accumulated vacation benefits available in which case the employee shall be required to take such holidays as vacation; or 2) the employee obtains supervisory approval to work an equivalent number of hours (at straight-time rates of pay) at some other time during the calendar year. The employee must notify the Employer at least ten (10) calendar days in advance of his/her religious holiday of his/her intent to observe such holiday. The Employer may waive this ten (10) calendar day requirement if the Employer determines that the absence of such employee will not substantially interfere with the department's function.

Section 23.03 - Compensation for Work on Holidays.

Subd. 1. Major Holidays

The "regular hourly rate" for all hours worked during any shift which begins on Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day (the "Major Holidays") is 1.5 times the employee's hourly rate in effect for work days other than such holidays. The additional compensation payable for working on a Major Holiday shall be payable in cash. Compensation for overtime worked on a Major Holiday is subject to the provisions of Section 20.03, Subd. 9.

Subd. 2. Other Holidays

In lieu of additional compensation with regard to the other holidays recognized in Section 23.01,

commencing with the 2011 payroll year, and continuing thereafter, on the first day of the payroll year each employee shall be credited with a holiday time bank consisting of the number of hours of two (2) regular work days. The employee's "regular work day" shall be determined based on the employee's assignment as of the first day of the payroll year. Requests for holiday time off shall be considered by supervisors on the same basis as vacation requests. Holiday time does not carry over from year to year and, therefore; holiday time banks will revert to zero as of 11:59 p.m. on the last day of each payroll year. Accrued but unused holiday time off at the time of an employee's separation from service shall be forfeited and, therefore, no compensation shall be payable for such accrued time.

ARTICLE 24
LEAVES OF ABSENCE WITH PAY

Section 24.01 - Leaves of Absence With Pay

Leaves of absence with pay may be granted to permanent employees under the provisions of this article when approved in advance by the Employer prior to the commencement of the leave.

Section 24.02 - Bereavement Leave

A leave of absence with pay of three (3) working days shall be granted in the event a permanent employee suffers a death in his/her immediate family. Immediate family is defined as an employee's Parent, Stepparent, Spouse, Registered Domestic Partner within the meaning of Minneapolis Code of Ordinances, Chapter 142, Child, Stepchild, Brother, Sister, Stepbrother, Stepsister, Father-in-law, Mother-in-law, Brother-in-law, Sister-in-law, Son-in-law, Daughter-in-law, Grandparent, Grandchild, Great Grandparent, Great Grandchild, or dependents in the employee's household. For purposes of this subdivision, the terms father-in-law and mother-in-law shall be construed to include the father and mother of an employee's domestic partner.

Bereavement Leave may be used intermittently. However, the three (3) working days must be used within five (5) working days from the time of death or funeral, unless an extension is required for individually demonstrated circumstance. Intermittent use must be approved by the employee's supervisor. Approval will not be reasonably withheld. In the even the supervisor does not approve, the employee may immediately appeal to the next upper level of the hierarchy.

Additional time off without pay, or vacation, if available and requested in advance, shall be granted as may reasonably be required under individually demonstrated circumstances. Accrued and available leave balances (vacation, sick leave or compensatory time) may be used following current approval practices.

Section 24.03 - Jury Duty and Court Witness Leave

After due notice to the Employer, employees subpoenaed to serve as a witness or called for jury duty, shall be paid their regular compensation at their current base rate of pay for the period the court duty requires their absence from work duty, plus any expenses paid by the court. Such employees, so compensated, shall not be eligible to retain jury duty pay or witness fees and shall turn any such pay or fees received over to the Employer. If an employee is excused from jury duty prior to the end of the normal workday, he/she/she shall return to work if reasonably practicable or make arrangements for a leave of absence without pay. For purposes of this Section, such employees shall be considered to be working normal day shift hours for the duration of their jury duty leave. This Section shall not apply to:

a. Any absence arising from the employee's participation in litigation where such participation is within the scope of the employment of such employee - such absences shall be compensated pursuant to the terms of Section 20.03, Subd. 4 (*Court, Court Standby, OPCR and Preparation*) of this Agreement; or

b. Any absence, whether voluntary or by legal order to appear or testify in private litigation, not in the status of an employee but as a plaintiff or defendant - such absences shall be charged against accumulated vacation, compensatory time or be without pay.

Section 24.04 - Military Leave With Pay

Pursuant to applicable Minnesota statutes, eligible employees shall be granted leaves of absence with pay during periods not to exceed fifteen (15) working days in any calendar year to fulfill service obligations.

Section 24.05 - Olympic Competition Leave

Pursuant to applicable Minnesota statutes, employees are entitled to leaves of absence with pay to engage in athletic competition as a qualified member of the United States team for athletic competition on the Olympic level, provided that the period of such paid leave will not exceed the period of the official training camp and competition combined or ninety (90) calendar days per year, whichever is less.

Section 24.06 - Bone Marrow Donor Leave

Pursuant to applicable Minnesota statutes, employees who work twenty (20) or more hours per week shall, upon advance notification to their immediate supervisor and approval by the Employer, be granted a paid leave of absence at the time they undergo medical procedures to donate bone marrow. At the time such employees request the leave, they shall provide to their immediate supervisor written verification by a physician of the purpose and length of the required leave. The combined length of leaves for this purpose may not exceed forty (40) hours unless agreed to by the Employer in its sole discretion.

Section 24.07 - Injury on Duty

The Chief of Police, with approval of the Civil Service Commission if necessary, shall grant an employee Injury On Duty (IOD) leave of absence with pay for a physical disability incurred in the performance of law enforcement duty for a period of up to one hundred eighty (180) calendar days in accordance with the length of the disability. Disability incurred in the performance of duties peculiar to law enforcement will apply only to leave necessitated as the direct and approximate result of an actual injury or illness whether or not considered compensable under the Minnesota Workers' Compensation law. Disability resulting from each new injury or illness incurred in the performance of law enforcement duty, or a recurrent disability resulting directly from a previous injury or illness sustained in the performance of law enforcement duty, will be compensable pursuant to, and where otherwise not in conflict with, the provisions of this Section. Such leave will not apply to disabilities incurred as the direct result of substantial and wanton negligence or misconduct of the disabled employee. The following conditions shall apply to IOD leave:

(a) When employees exhaust the one hundred eighty (180) days as provided in this section but remain disabled, they will be required to then expend their regular earned sick leave and vacation leave in order to obtain compensation during the period of continuing leave

of absence resulting from the disability. When the employee has exhausted his/her sick leave and vacation and still is disabled, the Employer may grant the employee additional disability leave in an amount up to ninety (90) working days. To be eligible for such additional IOD leave, the City's health care provider must certify that the employee will be able to return to the full performance of his/her duties at the expiration of such extended leave.

(b) When an employee returns to work following his/her use of earned sick leave or vacation or during the period which they are on extended leave as provided above, regular earned sick leave will be restored to the employee as follows:

SICK LEAVE DAYS UPON EXHAUSTION OF ORIGINAL 180 DAYS	RESTORED DAYS (MAXIMUM)
0 - 50	0 No sick leave restored
60 - 90	20
100 - 199	45
200 or More	90

Section 24.08 - Return from Leaves of Absence With Pay
When an employee is granted a leave of absence with pay under the provisions of this Article, such employee, at the expiration of such leave, shall be restored to his/her position.

ARTICLE 25
LEAVES OF ABSENCE WITHOUT PAY

Section 25.01 - Leaves of Absence Without Pay
Leaves of absence without pay may be granted to permanent employees when authorized by Minnesota statute or by the Employer pursuant to the provisions of this Article upon written application to the employee's immediate supervisor or his/her designated representative. Except for emergency situations, leaves must be approved in writing by the Employer prior to commencement.

Section 25.02 - Leaves of Absence Governed by Statute
The following leaves of absence without pay may be granted as authorized by applicable Minnesota statutes:

(a) Military Leave. Employees shall be entitled to military leaves of absence without pay for duty in the regular Armed Forces of the United States, the National Guard or the Reserves. At the expiration of such leaves, such employees shall be entitled to their position or a comparable position and shall receive other benefits in accordance with applicable Minnesota statutes. (See also, *Military Leave With Pay* at Section 24.04 of this Agreement.)

(b) Appointive and Elective Office Leave. Leaves of absence without pay to serve in an unclassified or appointed City position or as a Minnesota State Legislator or full-time elective officer in a city or county of Minnesota shall be granted pursuant to applicable Minnesota statutes. A vacancy created by a leave to allow an employee to serve in an appointed position or an elected position, other than in the Minnesota Legislature, shall be deemed a "permanent vacancy" meaning that the vacancy may not be filled by a detail. A vacancy created by a leave to allow an employee to serve in an elected office in the Minnesota Legislature shall be deemed a "temporary vacancy," meaning that that the vacancy may be filled by a detail under Section 16.04, so long as the legislative office is deemed "part-time." If an employee returns from such a leave, he/she shall have the right to return to his/her last-held civil service rank. The return of such person shall not result in the removal (bumping) of another person in such rank, except when the person is returning to the rank of Captain. To the extent such return from a leave of absence under this Section causes there to be an excess above the authorized strength at the rank of Police Officer, Sergeant or Lieutenant, the excess shall be reduced through attrition.

(c) School Conference and Activities Leave. Leaves of absence without pay of up to a total of sixteen (16) hours during a school year for the purpose of attending school conferences and classroom activities of the employee's child, provided that such conferences and classroom activities cannot be scheduled during non-work hours. When the need for the leave is foreseeable, the employee shall provide reasonable prior notice of the leave to their immediate supervisor and shall make a reasonable effort to schedule the leave so as not to disrupt the operations of the Employer. Employees may use accumulated vacation benefits or accumulated compensatory time for the duration of such leaves.

(d) Family and Medical Leaves

(1) General. Pursuant to the provisions of the federal *Family and Medical Leave Act of 1993, as amended,* and the regulations promulgated there under (which shall govern employee rights and obligations as to family and medical leaves wherever they may conflict with the provisions of this paragraph), leaves of absence of up to twelve (12) weeks in any twelve (12) months will be granted to eligible employees who request them for the following reasons:

(A) for purposes associated with the birth or adoption of a child or the placement of a child with the employee for foster care,

(B) when they are unable to perform the functions of their positions because of temporary sickness or disability,

(C) when they must care for their parent, spouse, *registered domestic partner* within the meaning of Minneapolis *Code of Ordinances* Chapter 142, child, or other dependents and/or members of their households who have a serious medical condition, and/or

(D) military family leave meeting the requirements of a "qualifying exigency leave" or "military caregiver leave."

Unless an employee elects to use accumulated paid leave benefits while on family and medical leaves (see subparagraph (6), below), such leaves are without pay. The Employee's group health, dental and life insurance benefits shall, however, be continued on the same basis as if the employee had not taken the leave.

(2) Eligibility. Employees are eligible for family and medical leaves if they have accumulated at least twelve (12) months employment service preceding the request for the leave and they must have worked at least one thousand forty-four (1,044) hours during the twelve (12) month period immediately preceding the leave. Eligible spouses or registered domestic partners who both work for the Employer will be granted a combined twelve (12) weeks of leave in any twelve (12) months when such leaves are for the purposes referenced in clauses (a) and (c) above.

(3) Notice Required. Employees must give thirty (30) calendar days' notice of the need for the leave if the need is foreseeable. If the need for the leave is not foreseeable, notice must be given as soon as it is practicable to do so. Employees must confirm their verbal notices for family and medical leaves in writing. Notification requirements may be waived by the Employer for good cause shown.

(4) Intermittent Leave. If medically necessary due to the serious medical condition of the employee, or that of the employee's spouse, child, parent, *registered domestic partner* within the meaning of Minneapolis *Code of Ordinances* Chapter 142, or other dependents and/or members of their households who have a serious medical condition, leave may be taken on an intermittent schedule. In cases of the birth, adoption or foster placement of a child, family and medical leave may be taken intermittently only when expressly approved by the Employer.

(5) Medical Certification. The Employer may require certification from an attending health care provider on a form it provides. The Employer may also request second medical opinions provided it pays the full cost required.

(6) Relationship Between Leave and Accrued Paid Leave. Employees may use accrued vacation, sick leave or compensatory time while on leave. The use of such paid leave benefits will not affect the maximum allowable duration of leaves under this subdivision.

(7) Reinstatement. Upon the expiration of family and medical leaves, employees will be returned to an equivalent position within their former job classification. Additional leaves of absence without pay described elsewhere in this Agreement may be granted by the Employer within its reasonable discretion, but reinstatement after any additional leave of absence without pay which may have been granted by the Employer in conjunction with family and medical leaves, is subject to the limitations set forth in Section 25.03 (*Leaves of Absence Governed by this Agreement*) of the Agreement.

Section 25.03 - Leaves of Absence Governed by this Agreement

Employees may be granted leaves of absence for the purpose set forth in this Section provided that such leaves are consistent with the provisions of this Section. Except as otherwise provided in this Section 25.03: a leave of absence granted may not be renewed or extended without the expressed mutual consent of the Parties; an employee on leave in excess of six (6) months will, at the expiration of the leave, be placed on an appropriate layoff list for his/her classification if no vacancies exist in such classification; and an employee on leave of less than six (6) months will, at the expiration of the leave, return to a position within his/her classification.

(a) *Temporary illness or injury.* A leave of absence for illness or injury to the employee or to provide care for a member of the employee's immediate family may be granted for up to 12 months. The employer may require that the condition be properly verified by medical authority. Upon the expiration of the leave, the employee will return to a position, determined at the discretion of the Chief, within his/her job classification. If the employee is physically unable to return to work upon the expiration of the leave, he/she will be placed on a medical layoff upon exhausting all accrued leave banks (vacation, sick leave, compensatory time). An employee may remain on the medical layoff/recall list for up to three (3) years.

If an employee is able to return to work upon the determination that he/she is fit for duty prior to the expiration of the layoff, he/she shall have the right to return to a vacancy in his/her last-held civil service rank. If there is no vacancy, the employee shall be entitled to a vacancy in the highest rank below his/her last-held civil service rank where there is a vacancy and shall be considered "on layoff" from his/her last-held civil service rank, subject to recall to the next available vacancy in that rank.

The vacancy created by a leave of absence for temporary illness or injury shall be considered a "temporary vacancy," meaning that the vacancy may be filled by a detail under Section 16.04 for up to twelve (12) months. The vacancy shall be deemed "permanent," thus requiring the termination of a detail, if the employee is unable to return to work upon the expiration of the leave or, prior to the expiration of the leave, the employee separates from service.

(b) *Education.* A leave of absence may be granted to allow an employee to pursue an educational opportunity that benefits the employee to seek advancement opportunities within the City or carry out job-related duties more effectively. The leave may be granted for a period of up to 12 months and may, at the discretion of the Chief, be renewed one time for up to an additional 12 months. A vacancy created by an initial education leave of twelve (12) months or less shall be deemed a "temporary vacancy" meaning that the vacancy may be filled by a detail under Section 16.04. A vacancy created by an initial education leave of more than twelve (12) months or any renewal of an initial education leave shall be deemed a "permanent vacancy" meaning that the vacancy may not be filled by a detail. If an employee returns from such a leave, he/she shall have the right to return to a vacancy in his/her last-held civil service rank. If there is no vacancy, the employee shall be entitled to a vacancy in the highest rank below his/her last-held civil service rank where there is a vacancy and shall be considered "on layoff"

from his/her last-held civil service rank, subject to recall to the next available vacancy in that rank.

(c) *Other Employment.* A leave of absence of up to six (6) months may be granted to allow an employee to serve in a position with another employer where such employment is deemed by the Employer to be in the best interests of the City and will be deemed a "temporary vacancy" meaning that the vacancy may be filled by a detail under Section 16.04. If the employee does not return to work immediately following the expiration of such leave, the vacancy created by the employee's decision to pursue other employment shall become a "permanent vacancy" meaning that any detail that had been used to fill the vacancy must terminate and the resulting vacancy may no longer be filled by a detail. If an employee returns from such a leave, he/she shall have the right to return to a vacancy in his/her last-held civil service rank. If there is no vacancy, the employee shall be entitled to a vacancy in the highest rank below his/her last-held civil service rank where there is a vacancy and shall be considered "on layoff" from his/her last-held civil service rank, subject to recall to the next available vacancy in that rank.

(d) *Candidate for Public Office.* A leave of absence of up to 12 months may be granted to allow an employee to become a candidate in an election for public office. A leave of absence without pay commencing thirty calendar days prior to the election is required, unless exempted by the Employer. A vacancy created by such a leave of six (6) months or less shall be deemed a "temporary vacancy" meaning that the vacancy may be filled by a detail under Section 16.04. A vacancy created by such a leave of more than six (6) months shall be deemed a "permanent vacancy" meaning that the vacancy may not be filled by a detail. If an employee returns from such a leave, he/she shall have the right to return to a vacancy in his/her last-held civil service rank. If there is no vacancy, the employee shall be entitled to a vacancy in the highest rank below his/her last-held civil service rank where there is a vacancy and shall be considered "on layoff" from his/her last-held civil service rank, subject to recall to the next available vacancy in that rank.

(e) *Personal Convenience.* A leave of absence of up to six (6) months may be granted for the personal convenience of the requesting employee. A vacancy created by such a leave shall be deemed a "temporary vacancy" meaning that the vacancy may be filled by a detail under Section 16.04. If the employee does not return to work immediately following the expiration of such leave, the vacancy created by the employee's absence shall become a "permanent vacancy" meaning that any detail that had been used to fill the vacancy must terminate and the resulting vacancy may no longer be filled by a detail. If an employee returns from such a leave, he/she shall have the right to return to a vacancy in his/her last-held civil service rank. If there is no vacancy, the employee shall be entitled to a vacancy in the highest rank below his/her last-held civil service rank where there is a vacancy and shall be considered "on layoff" from his/her last-held civil service rank, subject to recall to the next available vacancy in that rank.

(f) *Additional Parenting Leave.* A leave of absence of up to twelve (12) consecutive weeks may to granted to an employee who has exhausted his/her FMLA leave resulting from the birth or adoption of a child and who requests additional parenting leave. A vacancy

created by such a leave shall be deemed a "temporary vacancy" meaning that the vacancy may be filled by a detail under Section 16.04. During an additional parenting leave, an employee shall continue to accrue seniority and shall be entitled to work off-duty jobs in uniform under the same terms and conditions that apply to active employees. If both parents of the child work for the City of Minneapolis: the additional parenting leave of up to twelve (12) weeks shall be split between the parents (to the extent that both parents request the additional leave); and the Employer shall continue to pay the Employer portion of the health insurance premium, HRA/VEBA contribution and dental insurance premium for an employee who has elected such coverages while such employee is on the additional parenting leave.

(g) *Holiday Donation for Federation Business*. Employees shall be relieved from their regularly scheduled duties to engage in Federation activities in accordance with the terms of this Section.

(1) Federation Personnel – Full Time. The Federation President and/or any personnel he/she/ may designate to work exclusively on Federation business on a permanent basis (the "Full-Time Personnel") will be assigned to the Human Resources Unit of the Administrative Services Division and shall continue as employees of the Department with all rights, benefits and obligations relating thereto.

(2) Federation Personnel – Temporary. Members of the Federation Board of Directors or other Federation members (the "Temporary Personnel") shall, from time to time, be relieved from performing their regularly assigned work duties to allow them to engage in Federation business.

(3) Notice of Designation to Perform Federation Business. In order to minimize the disruption to the Department which may be caused by the absence of an employee on leave to conduct Federation business, the Federation shall provide advance written notice to the Department as follows:

i. if the employee will be working exclusively on Federation business for more than six consecutive months (the "Full-Time Personnel"), such notice shall be given as soon as practical but in no event less than sixty days prior to the commencement of the assignment to the Federation;

ii. if the employee will be working exclusively on Federation business for more than one but less than six consecutive months, such notice shall be given as soon as practical but in no event less than thirty days prior to the commencement of the assignment to the Federation;

iii. if the employee will be working on Federation business for all or part of less than thirty-one consecutive days, such notice shall be given as soon as practical but in no event less than fifteen days prior to the posting of the schedule for the scheduling period in question.

Notwithstanding the foregoing, if the employee is seeking a leave from his/her regular work duties to work on Federation business of a nature for which neither the Federation nor the employee could sufficiently plan in advance, the Federation shall give such notice as soon as is practical.

(4) The parties agree that the Department retains the right to limit an unplanned leave for Temporary Personnel to three consecutive workdays. For the purpose of the foregoing limitation, "work days" are days on which the affected employee was scheduled to work at his/her regular assignment. The Federation agrees that it will not seek a leave of absence of more than thirty-one consecutive days for Temporary Personnel to work exclusively on Federation business during the months of June, July and August. These limitations shall not apply to the Full-Time Personnel.

(5) The Federation shall have the right and responsibility to direct the activities of personnel while such personnel are engaged in Federation business pursuant to this paragraph. To preserve the right of the Federation to assign the duties of the Full-Time Personnel, the Department shall not order Full-Time Personnel to perform duties for the Police Department, except for: training required for such Full-Time Personnel to retain their POST license and/or good standing as employees of the Minneapolis Police Department; being interviewed under *Garrity* by Internal Affairs; or required participation in criminal or civil litigation relating to duties performed by the employee as a Minneapolis Police officer (collectively the "Mandatory MPD Duties").

The Department may *request* Full-Time Personnel to perform duties for the Department other than the Mandatory MPD Duties. The Full-Time Personnel may accept or decline such requested duties. If accepted, such duties shall be compensated at the "overtime" rate unless the parties enter into a prior written agreement that provides for compensation at the "straight-time" rate.

Full-Time Personnel may volunteer for overtime opportunities in the Department (such as Buyback, MOU shifts, etc.) on the same basis as other MPD personnel and shall be paid at the overtime rate for such work. Full-Time Personnel may also work off-duty jobs, subject to the terms of the MPD Policy and Procedure Manual. Notwithstanding the provisions of this subsection:

i. Except with regard to Buyback and MOU Shifts which are always compensated at the overtime rate just as they are for all other employees, Full-Time Personnel shall not be compensated at the overtime rate for any work for the Department unless they are in paid status (time spent on any combination of Federation business, MPD duties and use of accrued time off banks, with the exception of compensatory time) for at least 80 hours during the same pay period in which the Department work is performed; and

ii. the first eight (8) consecutive hours per shift of time engaged in Mandatory MPD duties shall always be compensated at the straight time rate and

consecutive time in excess of eight (8) hours shall be compensated at the overtime rate.

(6) Donated Time Account. The Employer will donate time to the Federation's Donated Time Account for each member of the Federation as of the first day of the first payroll period of each year. The payroll section of the Minneapolis Police Department shall maintain an up-to-date and accurate system of accounting for the accumulation and use of donated time. The payroll section shall contact the Federation office at least once per month to advise the Federation of the balance in this account. Any discrepancies in accounting will be corrected promptly. Up to four hundred (400) hours of unused donated time may be carried over to the next payroll year. Each payroll period, the Federation will contact the Payroll Clerk in the Human Resources Unit to report the hours worked during the payroll period by the full-time and temporary Federation personnel. The number of hours absent from duty and which are spent on Federation business will be debited from the donated time account. Time relating to the following shall be compensated by the City and shall not be debited from the donated time account: work performed for the Department, including the Mandatory MPD Duties by Full-Time Personnel, voluntary work performed by Full-Time Personnel and the regular assigned duties of Temporary Personnel; and use of vacation days, sick days, and compensatory time. The parties acknowledge that the start time and/or end time entered into the payroll system may or may not reflect the start or end time of Federation Hours actually worked.

Nothing herein shall preclude the Federation from compensating members for the performance of Federation business under certain circumstances, determined in the sole discretion of the Federation, by directing the application of hours from the Federation's Donated Time Account on more than an "hour for hour" basis provided such compensation bears a reasonable relationship to hours actually worked on Federation Business. The rate of compensation payable with regard to hours debited from the Federation's Donated Time Account shall be the regular hourly "straight-time" rate of the individual employee for such hours as established pursuant to the terms of this Agreement.

(h) *Special Rule for Police Officers.* An employee in the rank of Police Officer who is eligible to return to work following a leave of absence granted under this Section 25.03, shall have the right to return to work as a Police Officer regardless of whether a vacancy exists at the time he/she is ready to return to work, except when there is no vacancy due to a reduction in the number of budgeted "full time employees" in the rank of Police Officer that occurred while the employee was on a leave of absence. In that event, the employee may, at the time he/she is eligible to return to work, displace an employee in the rank of Police Officer with lesser seniority and the employee with the least seniority may be laid off subject to the provisions of Article 21.

(i) *Consecutive Leaves of Absence Prohibited.* Unless the Parties mutually agree, an employee who is granted a leave of absence for one of the circumstances described in subparagraphs (b) through (e) of this Section 25.03 must return to work and remain in

paid status for at least six (6) months before he/she may be granted another leave of absence for one of the circumstances described in subparagraphs (b) through (e) of this Section.

Section 25.04 - Budgetary Leaves of Absence.

Budgetary leaves of absence may be granted to employees when, in the Employer's sole discretion, it is necessary to reduce its operating budget. Such leaves shall be without pay, however, seniority, vacation, sick leave, and insurance benefits shall not be interrupted or lost on account of the leave. Budget leaves may not be: 1) imposed involuntarily on employees or 2) approved for any other purpose. At the expiration of a budgetary leave, the employee shall return to his/her department in a position within his/her classification.

a. *Continuous Leave.* An employee may request a leave of absence for a continuous period of not less than four weeks and not more than 12 months. Such leave shall be taken in increments of not less than one week. To be eligible for the leave, the employee must notify the Employer in writing on or before November 1 of the year prior to the calendar year in which the leave is to occur. Such written notice shall include the requested starting and ending date of the leave. Once granted by the Employer, the employee must take such leave during the period requested and may not return to work unless the Employer, in its sole discretion agrees.

b. *Intermittent Leave.* An employee who has not taken or committed to a continuous budgetary leave during any calendar year, may request an intermittent unpaid leave of absence for up to 90 days during any calendar year. Such leave may be taken intermittently in increments of not less than one day and not more than 90 days.

(1) *With Binding Commitment.* Intermittent budgetary leave *shall* be granted (subject to the business needs of the Department) if requested by the employee in writing on or before November 1st for leave to be taken in the following payroll year. The written request must specify the number of days of unpaid leave to be taken by the employee. Once the request is received by the Employer, the employee must take unpaid leave in the amount requested, unless the Employer in its sole discretion, agrees. To take the time off, the employee shall notify the Employer at least 30 days before the beginning of the 28-day scheduling period of the days he/she wants off during that scheduling period. Requests for leave made on less than 30 days' notice may be granted or denied by the Employer on the same terms as a request for vacation, however, the Employer shall use its best efforts to accommodate the requests of the Employee. If the Employee has not exhausted his/her leave or designated the days on which he/she will be off on or before September 1, the Employer may schedule the time off at its discretion, but shall attempt to do on days mutually agreeable to the employee.

(2) *Without Binding Commitment.* Intermittent budgetary leave *may* be granted if requested by the employee after the deadlines set forth in subsection (1), above. Notwithstanding such request, the employee is not obligated to take such leave. However, the Employer is also not obligated to grant the request. Requests for unpaid intermittent leave without a binding commitment shall be subordinate to

requests for vacation and compensatory time off. The employee shall attempt to give the Employer as much advance notice as is reasonably practical.

c. During such budgetary leave of absence, an employee shall continue to accrue vacation, sick leave and seniority and the Employer shall continue to pay the Employer's portion of any health, dental or life insurance premiums in effect with regard to such employee immediately prior to the commencement of such leave. Similarly, the employee shall continue to pay any monthly employee portions in order to maintain benefit levels.

d. During an intermittent budgetary leave, an employee shall be entitled to work off-duty jobs in uniform under the same terms and conditions that apply to active employees.

Section 25.05 - Background Check for Employees Returning to Work After Extended Absence

Prior to reinstating to active duty status an employee who is reinstated pursuant to Section 16.06 or is returning from a leave of absence, layoff or disciplinary action that lasted six months or more, the Employer shall conduct a background check on the employee. In determining whether the employee has passed the background check, the Employer shall use the same standards as are used to determine whether to disqualify a new hire. The employee shall cooperate by providing to the background investigator(s) such information as is reasonably related to evaluating the employee's fitness for duty. The Employer shall complete the background check as soon as is possible after the employee has provided written verification that the reason for his/her absence has expired or terminated and that he/she/she is available to report for duty. Except in cases of reinstatement pursuant to Section 16.06, if the background check is not completed within 14 days after the employee has provided such written verification of availability, the Employer shall place the employee in paid status (even if the employee is not cleared to return to active duty) effective as of the 15th day after such notice is received; unless the Employer was unable to complete the background check solely because of the employee's failure to cooperate with the investigator(s). Notwithstanding the foregoing, where reinstatement occurs as a result of a grievance or other appeal of disciplinary action, the employee shall be returned to paid status as of the effective date of such award or order. Upon determining that the employee has passed the background check, the Employer shall reinstate the employee to active duty status.

ARTICLE 26
ADMINISTRATIVE LEAVE

Section 26.01 - Placement on Administrative Leave / Limited Duty Status

Subd. 1. Critical Incident - Involved Officers

Involved Officers, as defined below, shall be placed on a mandatory paid administrative leave for a minimum of three calendar days. The duration of the leave shall be as specified in 26.02.

Subd. 2. Critical Incident - Witness Officers

A Witness Officer, as defined below, may request to be placed on paid administrative leave for up to three calendar days following the Critical Incident. The decision to grant the request shall be made at the sole discretion of the Chief. The duration of the administrative leave for a Witness Officer shall be as specified in Section 26.02.

Subd. 3. Traumatic Incident

An officer who participates in or observes an incident which may have a lasting psychological impact on an officer, as determined by his/her supervisor, may request to be placed on administrative leave. Administrative leave of up to one full work day may be granted by the employee's immediate supervisor. A leave of up to three (3) full work days may be granted by the employee's division or precinct commander.

Subd. 4. Pending Investigation of Allegations of Misconduct

The Chief or his/her designee, at his/her sole discretion, may place an employee on a paid administrative leave of absence or limited duty status pending the investigation of allegations of severe misconduct. The Chief shall speak with a representative of the Federation regarding the basis for the decision, if practical, prior to placing an employee on administrative leave but in no event more than three (3) days after the placement of an employee on administrative leave or limited duty status. With regard to allegations that are under investigation by or at the direction of the MPD, the Chief shall cause the allegations to be investigated as promptly as possible without compromising the thoroughness and impartiality of the investigation. Once the investigation is concluded, the Chief will promptly make a decision as to whether discipline is to be imposed, and if so the level of discipline, and notify the employee.

Subd. 5. Work Day Defined for Leave Resulting From a Critical Incident

Each day of the initial period of administrative leave (up to seven days for an Involved Officer (Critical Incident); and up to three days for a Witness Officer (Critical Incident) or an officer experiencing a Traumatic Incident) shall be considered a fully paid regularly scheduled "work day." The officer's schedule may be adjusted in order to avoid, to the extent possible, the administrative leave from creating an overtime obligation for excess hours in a payroll period. If the leave is extended beyond seven days (three days for a Witness Officer or an officer experiencing a Traumatic Incident), the period of the additional paid leave shall be scheduled such that the officer receives his/her regular pay, but no overtime pay.

Section 26.02 - Duration of Leave.

Subd. 1. Critical Incident

The duration of administrative leave for an Involved Officer shall be not less than three calendar days. The leave may extend to a maximum of seven calendar days following the critical incident at the discretion of the Chief. The leave may be extended beyond seven days if requested by the Involved Officer and approved by the Chief. The duration of administrative leave for a Witness Officer shall not exceed three calendar days. The leave may be extended beyond three days if requested by the Witness Officer and approved by the Chief. The foregoing limitations on the maximum duration of administrative leave shall not apply when:

1. the officer is unfit for duty as determined pursuant to Article 31; or

2. there is sufficient reliable evidence to support a preliminary conclusion that the officer may have engaged in conduct relating to the incident which, if true, would constitute a terminable offense. In such case, following the expiration of the seven calendar days, the administrative leave shall be considered to be a leave pending investigation.

Subd. 2. Pending Investigation

The duration of the administrative leave leave or limited duty status, and any restrictions on the ability of the employee to work off-duty or overtime relating thereto, shall be at the discretion of the Chief for the first thirty (30) days. Thereafter, the duration of the administrative leave or limited duty status and any restrictions relating thereto shall be subject to the provisions of this Section. After the initial 30-day period, the Federation may request (not more frequently than once every two weeks) that the Chief provide an update on the status of the investigation and/or review the duty status and the restrictions on the employee. After the initial 30-day period, the duration of the administrative leave or limited duty status shall depend on whether there is sufficient reliable evidence to support a preliminary conclusion that an allegation of severe misconduct may be sustained. If there is such evidence, the administrative leave or limited duty status shall continue at the discretion of the Chief. If there is not such evidence, the administrative leave or limited duty status shall end and the employee shall return to work in accordance with the provisions of Section 26.04, Subd. 2. If, after the initial 30 days, the parties do not agree as to whether the allegation is of severe misconduct or whether there is sufficient reliable evidence to support a preliminary conclusion that the allegation may be sustained; the Federation may request that the dispute be resolved pursuant to the dispute resolution process set forth in the Memorandum of Agreement attached hereto as Attachment G.

Section 26.03 - Return to Work Following Administrative Leave / Limited Duty Status

Subd. 1. Critical Incidents and Traumatic Incidents

Upon the conclusion of the administrative leave, a precinct employee on leave from a Bid Assignment shall return to his/her Bid Assignment in his/her precinct and shift and to the normal duties relating thereto, subject to the customary supervisory discretion with regard to assignment matters. Upon the conclusion of the administrative leave, a non-precinct employee or a precinct employee on leave from a Discretionary Assignment shall return to his/her previous work location and work schedule.

Subd. 2. Pending Investigation

Upon the termination of administrative leave the employee shall return to work as follows:

a. an employee who, immediately prior to such leave or status was in a Bid Assignment shall return to his/her Bid Assignment and to the duties relating thereto, subject to the normal supervisory discretion with regard such assignment; or

b. an employee who, immediately prior to such leave or status was in a Discretionary Assignment, may be assigned to any appropriate assignment and duties.

Subd. 3. Off-Duty Employment; Buy Back

Upon the return to work under Subd. 1 or 2 of this Section, the employee may return to any approved off-duty employment and may work Buy Back assignments.

Section 26.04 - Expedited Arbitration

Disputes arising from alleged violations of Sections 26.01 through 26.03 regarding administrative leave resulting from a Critical Incident shall be subject to the Expedited Arbitration provisions of Article 11 at the request of the Federation (notwithstanding the "mutual agreement" provisions).

Section 26.05 - Special Provisions Regarding Critical Incidents

Subd. 1. Definitions

The following terms as used herein shall have the following meanings:

1. *Critical incident.* An incident involving any of the following situations occurring in the line of duty:

    a. the use of Deadly Force, as defined by Minn. Stat. §609.066, by or against a Minneapolis Police Officer; or

    b. a situation in which a person who is in the custody or control of an officer dies or sustains substantial bodily harm.

2. *Compelled Statement.* A statement or written description of events that is required to be given pursuant to the Minneapolis Police Department ("MPD") Policy and Procedure Manual or the lawful order of a supervisor and for which the person so obligated is subject to discipline if the statement or description is not given.

3. *Witness officer.* An officer who witnesses a critical incident but who apparently did not engage in any conduct constituting a critical incident.

4. *Involved officer.* An officer who appears to have engaged in conduct constituting a critical incident.

5. *Police Report.* For the purpose of this Section, a statement in the form of a CAPRS report or a Q & A interview statement as determined by the Chief or his/her designee.

Subd. 2. Communications With and Among Officers Following A Critical Incident

Neither Witness Officers nor Involved Officers shall voluntarily talk to or be asked to voluntarily talk to anyone about the incident, except to:

a. provide details to enable the primary responders or investigators to secure the scene;

b. facilitate the commencement of the investigation;

c. apprehend suspects;

d. allow for officer or civilian safety at the scene; or

e. consult with legal counsel.

Subd. 3. Initial Consultation With Legal Counsel

Witness Officers and Involved Officers shall be allowed a reasonable opportunity to consult with legal counsel before being asked to give a voluntary statement to an MPD Supervisor or an investigator. Immediately after consultation with legal counsel, the legal counsel will inform the ranking investigator or designee if the officer is willing to give a voluntary statement. If the Officer requests, he/she shall be

allowed to consult with legal counsel before giving a compelled statement.

The provisions of this subdivision shall not apply to the information described under Subd. 2 of this Section.

Subd. 4. Statements and Reports

1. *Voluntary Statements to Investigators.* Voluntary statements to investigators, whether written or oral, may be made at the discretion of the Officer.

2. *Police Reports.* Regardless of whether the officer gives a voluntary statement to investigators, each Witness Officer shall complete a Police Report as soon as practical following the critical incident, unless relieved of the obligation to do so by the ranking investigator or the Chief. Regardless of whether the officer gives a voluntary statement to investigators, each Involved Officer shall complete a Police Report as soon as practical, but in all instances, prior to the expiration of administrative leave, unless relieved of the obligation to do so by the ranking investigator or the Chief. An employee may be required to give both a CAPRS and a Q & A Statement when it is determined that a Q & A Statement is required. If feasible, the lead investigator will advise the Federation Representative before advising the employee. If a Q & A Statement is to be given before the employee is relieved from duty for his/her work shift, the Q & A Statement shall be taken within a reasonable time.

Subd. 5. Firearms and Equipment

Both Witness and Involved Officers shall make themselves available for a firearms inspection. If investigators request, an officer shall surrender his/her firearm and any other requested equipment. An officer who surrenders his/her firearm or equipment and who requests a replacement for items surrendered, shall be provided by the Department with a replacement firearm and/or equipment as soon as reasonably possible. Unless a supervisor has a reason to believe that the officer poses a threat to himself/herself or to others or unless directed by the ranking investigator, firearms should not be taken from officers at the scene of the Critical Incident.

Subd. 6. Psychological Debriefing

Witness Officers shall be encouraged and allowed to meet with the Mental Health Professional, as defined in the Critical Incident Policy (Section 7-810.01 of the MPD Policy and Procedure Manual as of 10/27/04), selected by the officer from the approved list. Involved Officers shall be required to meet with the Mental Health Professional selected by the officer from the approved list. Such meeting or meetings shall be considered on-duty time, and the City shall pay the fees of the Mental Health Professional pursuant to Section 31.05 of the Collective Bargaining Agreement. If, after consultation, the Mental Health Professional renders an opinion that the officer is not yet fit for duty, the officer shall be placed on Injured on Duty ("IOD") Status, pursuant to Minneapolis Civil Service Rule 15.19(A). If the Mental Health Professional determines that the officer is not able to return to work in any capacity after the officer has exhausted IOD benefits, he/she may continue to be eligible for paid time off pursuant to applicable provisions of the Labor Agreement, other Civil Service Rules or State Law. Any disputes concerning the Officer's fitness for duty shall be resolved in accordance with Section 31.07, of the Collective Bargaining Agreement.

Subd. 7. Continuing Consultation with Legal Counsel; Cooperation with City Attorney

Witness and Involved Officers are entitled to consult with their legal counsel during the pendency of the critical incident investigation, up to and including any grand jury proceedings. Such reasonable and necessary meeting or meetings shall be considered on-duty time and the fees of the legal counsel may be eligible to be paid by the City pursuant to Minn. Stat. §466.76 and the City's legal fees policy. Officers shall be personally responsible for payment of any legal fees which exceed the hourly rate provided for in the City's legal fees policy. Both Witness and Involved Officers are required to meet with and otherwise cooperate with the Civil Division of the City Attorney's Office as requested with regard to the investigation and subsequent defense of any civil litigation that may arise from a Critical Incident.

ARTICLE 27
SICK LEAVE

Section 27.01 - Sick Leave

Permanent employees who regularly work twenty (20) or more hours per week shall be entitled to leaves of absence with pay, for actual, bona fide illness, temporary physical disability, or illness in the immediate family, or quarantine. Such leaves shall be granted in accordance with the provisions of this Article.

Section 27.02 - Definitions

The term *illness*, where it occurs in this Article, shall include bodily disease or injury or mental affliction, whether or not a precise diagnosis is available, when such disease or affliction is, in fact, disabling. Other factors defining sick leave are as follows:

(a) Ocular and Dental. Necessary ocular and dental care of the employee shall be recognized as a proper cause for granting sick leave.

(b) Chemical Dependency. Alcoholism and drug addiction shall be recognized as an illness. However, sick leave pay for treatment of such illness shall be contingent upon two conditions: 1) the employee must undergo a prescribed period of hospitalization or institutionalization, and 2) the employee, during or following the above care, must participate in a planned program of treatment and rehabilitation approved by the Employer in consultation with the Employer's health care provider.

(c) Chiropractic and Podiatrist Care. Absences during which ailments were treated by chiropractors or podiatrists shall constitute sick leave.

(a) Illness or Injury in the Immediate Family. Employees may utilize accumulated sick leave benefits for reasonable periods of time when their absence from work is made necessary by the illness or injury of their: child; step-child; spouse; *registered domestic partner* within the meaning of Minneapolis *Code or Ordinances* Chapter 142; parent; spouse's parent; sibling; grandchild; grandparent; step-parent; dependents other than their children and/or members of their household. The utilization of sick leave benefits under the provisions of this paragraph shall be administered under the same terms as if such benefits were utilized in connection with the employee's own illness or injury.

Additional time off without pay, or vacation, if available and requested in advance, shall be granted as may reasonably be required under individual demonstrated circumstances. Nothing in this subdivision limits the rights of employees under the provisions of Section 25.02, (d), (*Family and Medical Leaves*) or Minn. Stat. §181.9413.

Section 27.03 - Eligibility, Accrual and Calculation of Sick Leave

If permanent employees who regularly work more than twenty (20) hours per week, are absent due to illness, such absences shall be charged against their accumulated accrual of sick leave. Sick leave pay benefits shall be accrued by eligible employees at the rate of ninety-six (96) hours per calendar year worked and shall be calculated on a direct proportion basis for all hours of credited work time other than overtime.

Section 27.04 - Sick Leave Bank - Accrual

All earned sick leave shall be credited to the employee's sick leave *bank* for use as needed. Ninety-six (96) hours of medically unverified sick leave may be allowed each calendar year. However, the Employer may require medical verification in cases of suspected fraudulent sick leave claims, including where the employee's use of sick leave appears systematic or patterned. Five (5) or more consecutive days of sick leave shall require an appropriate health care provider in attendance and verification of such attendance. The term *in attendance* shall include telephonically-prescribed courses of treatment by a physician which are confirmed by a prescription or a written statement issued by the physician.

Section 27.05 - Interrupted Sick Leave

Permanent employees with six (6) months of continuous service who have been certified or recertified to a permanent position shall, after layoff or disability retirement, be granted sick leave accruals consistent with the provisions of this Article. Employees returning from military leave shall be entitled to sick leave accruals as provided by applicable Minnesota statutes.

Section 27.06 - Sick Leave Termination

No sick leave shall be granted an employee who is not on the active payroll or who is not available for scheduled work. Layoff of an employee on sick leave shall terminate the employee's sick leave.

Section 27.07 - Employees on Suspension

Employees who have been suspended for disciplinary purposes shall not be granted sick leave accruals or benefits for such period(s) of suspension.

Section 27.08 - Employees on Leave of Absence Without Pay

An employee who has been granted a leave of absence without pay, except a military or budgetary leave, shall not be granted sick leave accruals or benefits for such periods of leave of absence without pay.

Section 27.09 - Workers' Compensation and Sick Leave

Employees shall have the option of using available sick leave accruals, vacation accruals, compensatory time accruals or receive workers' compensation (if qualified under the provisions of the *Minnesota Workers' Compensation Statute*) where sickness or injury was incurred in the line of duty. If sick leave, vacation or compensatory time is used, payments of full salary shall include the workers' compensation to which the employees are entitled under the applicable statute, and the employees shall receipt for such compensation payments. If sick leave, vacation or compensatory time is used, the employees' sick leave,

vacation or compensatory time credits shall be charged only for the number of days represented by the amount paid to them in excess of the workers' compensation payments to which they are entitled under the applicable statute. If an employee is required to reimburse the Employer for the compensation payments thus received, by reason of the employee's settlement with a third party, his/her sick leave, vacation or compensatory time will be reinstated for the number of days which the reimbursement equals in terms of salary. In calculating the number of days, periods of one-half (½) day or more shall be considered as one (1) day and periods of less than one-half (½) day shall be disregarded.

Section 27.10 - Notification Required

Employees shall be required to notify their immediate supervisor as soon as possible of any occurrence within the scope of this Article which prevents work. If the Employer has provided pre-work shift contact arrangements, employees shall be required to provide such notification no later than one (1) hour before the start of the work shift. If no such arrangements have been made, employees shall be required to provide such notification as soon as possible but in no event later than one-half (½) hour after the start of the shift.

ARTICLE 28
SICK LEAVE CREDIT PAY AND SEVERANCE PAY

Section 28.01 - Sick Leave Credit Pay Plan

An employee who satisfies the eligibility requirements of this Section, shall be entitled to make an election to receive payment for sick leave accrued but unused under the terms and conditions set forth below.

(a) Eligibility. An employee who has an accumulation of sick leave of four hundred eighty (480) hours or more on December 1 of each year (hereafter an "Eligible Employee") shall be eligible to make the election described below.

(b) Election. On or before December 10 of each year, the Employer shall provide to each Eligible Employee a written election form on which the Eligible Employee may elect: whether he/she wants to receive cash payment for all or any portion of his/her sick leave that is accrued but is unused during the calendar year immediately following the election (the "Accrual Year"); and, if payment is to be made, the method of payment (regular or optional) as described below. The employee shall deliver the election form to the Employer on or before December 31. Such election is irrevocable. Therefore, once an Eligible Employee transmits his/her election form to the Employer, the employee may not revoke the decision to receive cash payment for sick leave or change the method of payment or the amount of sick leave for which payment is to be made. If an Eligible Employee does not transmit an election form to the employer on or before December 31, he/she shall be considered to have directed the Employer to NOT make a cash payment for sick leave accrued during the Accrual Year. If an Eligible Employee elects to receive payment, but does not specifically elect the optional method, the optional method shall NOT be used.

(c) Payment. Within sixty (60) days after the end of the Accrual Year, an Eligible Employee who has elected to receive cash payment shall be paid as follows:

i. *At Least Four Hundred Eighty (480) Hours, But Less Than Seven Hundred Twenty (720) Hours.* With regard to an Eligible Employee who, as of December 31 of the Accrual Year, has accumulated at least four hundred eighty (480) hours but less than seven hundred twenty (720) hours of sick leave, payment shall be made for the lesser of: the number of hours indicated by the employee on his/her election form; or the number of unused sick leave hours earned during the Accrual Year in excess of four hundred eighty (480) hours. The amount of the payment shall be based on fifty percent (50%) of the employee's regular hourly rate of pay in effect on December 31 of the Accrual Year.

ii. *At Least Seven Hundred Twenty (720) Hours, But Less Than Nine Hundred Sixty (960) Hours.* With regard to an Eligible Employee who, as of December 31 of the Accrual Year, has accumulated at least seven hundred twenty (720) hours but less than nine hundred sixty (960) hours of sick leave, payment shall be made for the lesser of: the number of hours indicated by the employee on his/her election form; or the number of unused sick leave hours earned during the Accrual Year in excess of seven hundred twenty (720) hours. The amount of the payment shall be based on seventy-five percent (75%) of the employee's regular hourly rate of pay in effect on December 31 of the Accrual Year.

iii. *At Least Nine Hundred Sixty (960) Hours.* With regard to an Eligible Employee who, as of December 31 of the Accrual Year, has accumulated at least nine hundred sixty (960) hours of sick leave, payment shall be made for the lesser of: the number of hours indicated by the employee on his/her election form; or the number of unused sick leave hours earned during the Accrual Year in excess of nine hundred sixty (960) hours. The amount of the payment shall be based on one hundred percent (100%) of the employee's regular hourly rate of pay in effect on December 31 of the Accrual Year.

iv. *Optional Payment Method.* Payment shall be made for the lesser of: the number of hours indicated by the employee on his/her election form or the number of unused sick leave hours earned during the Accrual Year, with regard to an Eligible Employee who:

1. has elected to receive payment under the optional method; and

2. as of December 31 of the Accrual Year, has accumulated at least seven hundred twenty (720) hours of sick leave but has not accumulated enough aggregate hours to receive payment for all of the hours he/she accrued during the Accrual Year at the rate specified in subparagraph

ii. or iii., above.

The amount of the payment under the Optional Method shall be based on the percentage of the employee's regular hourly rate that would apply to *all* of the hours for which the employee is to be paid (namely, the next lower rate than that for which the employee was otherwise qualified).

(d) Adjustment of Sick Leave Bank. The number of hours for which payment is made shall be deducted from the Eligible Employee's sick leave bank at the time payment is made.

(e) Deferred Compensation. Employees, at their sole option, may authorize and direct the Employer to deposit sick leave credit pay under paragraph (c) to a deferred compensation plan administered by the Employer provided such option is exercised at the same annual time as regular changes in deferred compensation payroll deductions are normally permitted.

Section 28.02 Accrued Sick Leave Benefit Pay Plan

Employees who separate from positions in the qualified service and who meet the requirements set forth in this Article shall be paid in the manner and amount set forth herein:

(a) Payment for accrued but unused sick leave shall be made only to employees who:

i. have separated from service; and

ii. as of the date of separation had accrued sick leave credit of no less than four hundred eighty (480) hours; and

iii. as of the date of separation had:

1. no less than twenty (20) years of qualified service as computed for pension eligibility purposes, or

2. who have reached sixty years of age, or

3. who are required to separate because of either disability or having reached mandatory retirement age.

(b) When an employee having no less than four hundred eighty (480) hours accrued sick leave dies prior to separation, he/she/she shall be deemed to have separated because of disability at the time of death, and payment for his/her accrued sick leave shall be paid to the designated beneficiary as provided in this Section.

(c) The amount payable to each employee qualified hereunder shall be one-half

(½) the daily rate of pay for the position held by the employee on the day of separation, notwithstanding subsequent retroactive pay increases, for each day of accrued sick leave subject to a minimum of four hundred eighty (480) hours and a maximum of one thousand nine hundred twenty (1920) hours.

(d) Such severance pay shall be paid in a lump sum following separation from employment but not more than sixty (60) days after the date of the employee's separation.

(e) 100% of the amount payable under this Section shall be deposited into the Health Care Savings Account (MSRS). This deposit shall occur within thirty (30) days of the date of separation.

(f) If an employee entitled to payment under this Section dies prior to receiving the full amount of such benefit, the remaining payments shall be made to the beneficiary entitled to the proceeds of his or her Minneapolis group life insurance policy or to the employee's estate if no beneficiary is listed.

ARTICLE 29
PHYSICAL FITNESS PROGRAM

Section 29.01 - Fitness Testing.

Subd. 1. Purpose

The purpose of the fitness testing program is to improve the level of physical fitness for the Department by establishing fitness goals for all sworn personnel and a system of assistance and incentives to encourage everyone to attain these goals.

Subd. 2. Definitions

(1) Test - shall mean the entire testing protocol consisting of all of the five elements described in Subd. 4, below.

(2) Component - shall mean any one of the five elements of the test described in Subd. 3, below.

(3) Test Score - shall mean the cumulative numerical measure of performance on all components.

(4) Component Score - shall mean the numerical measure of performance on any component.

(5) Attempt - the act of taking the test or any component, as mandated pursuant to this agreement.

Subd. 3. Test Components

The physical fitness test shall consist of the following components:

(1) Option of Bench Press or pushups to measure upper body strength;

(2) Option of Leg Press or vertical jump to measure lower body strength;

(3) Sit-ups to measure trunk muscular fitness;

(4) Option of GXT Test or 1.5 mile run to measure aerobic power; and

(5) 300 meter run to measure anaerobic power.

The employee may satisfy the aerobic power component by satisfactorily performing either a GXT Test or 1.5 mile run. The employee at his/her sole discretion may select either the GXT Test or the 1.5 mile run. If the employee selects the GXT Test, he/she/she must agree in writing that the test administrator may disclose a numerical test score to the MPD. If an employee selects to do the run,

he/she still is entitled to take one GXT Test per year for his/her own personal benefit and the results of such GXT Test need not be disclosed to the MPD.

The employee may satisfy the upper body strength component by attaining the standards for either the flat weight or percentage of body weight as measured by the bench press or performing the requisite number of push-ups. The employee may satisfy the lower body strength component by attaining the standards for either the flat weight as measured by the leg press or performing the required vertical jump. The employee must select either the bench press or push-ups and the leg press or vertical jump prior to taking the test.

Subd. 4. Fitness Goals

The fitness goals have been determined and validated as appropriate job-related measures by a consultant with recognized expertise in establishing fitness standards for law enforcement officers. The fitness goals for each component of the test shall be the same as the requirements for successful completion of the academy, but shall not be more stringent than the following:

COMPONENT	GOAL
UPPER BODY STRENGTH	Bench Press - 150 Pounds; or Bench Press - 82% of body weight; or Push-ups - 28
LOWER BODY STRENGTH	Leg Press - 356 Pounds; or Vertical Jump - 16 inches
SIT-UPS	35
300 METER RUN	69 Seconds
GXT TEST (VO2)	35
1.5 MILE RUN	14:43 (minutes : seconds)

Subd. 5. Frequency of Testing

An employee may be required to take the test once per calendar year upon 90 days advance notice. If the employee takes the test, but does not meet each of the Goals, he/she, at the employee's option, may retest at any time the test is given by the Department during the year. However, an employee may not retest on more than two components within less than 60 days of a prior attempt. An employee who elects to retest and who has attained the Goal on at least three of the Components within 90 days of the retest shall be considered to have attained each of the Goals by retesting only those Components for which he/she did not initially meet the Goal. An employee who elects to retest and who must take the cardiovascular Component, may opt to take the GXT Test at City expense only twice per year (this limitation includes the initial Test).

Subd. 6. Testing Mandatory; Excused Absences

(1) Physical fitness testing shall be mandatory for all sworn personnel.

(2) Subject to the terms of this paragraph, an employee may seek to be excused from testing. Justifiable reasons for not taking the Test in any given month shall include, but are not limited to, situations in which the employee is:

(A) physically or medically unable to perform;

(B) on a leave of absence (whether paid or unpaid) or pre-approved vacation; or

(C) assigned to a work detail which causes the employee to be unable to take the Test.

(3) An employee seeking to be excused from testing must notify his/her commander in writing prior to the scheduled testing session of such request and the reason for the request. The commander shall have the discretion to grant requests for reasons (B) and (C) above. The commander shall also have discretion to grant requests for short-term, minor physical conditions subject to the restrictions set forth below. If the commander determines that the employee should be excused, he/she shall notify the testing administrator in writing (with a copy to the employee). The notice shall also specify the employee's new test date. When so excused by his/her commander, the employee is not required to report for testing.

(4) If the employee's request to be excused because of a physical or medical condition is refused by his/her commander, the commander shall refer the employee to the City's health care professional who shall make the determination as to whether the employee is able to take the test.

(5) The City's health care professional may excuse the employee from testing if the professional determines that the employee is suffering from a condition which prevents the employee from performing the test safely or to the best of his/her ability. The employee shall be tested as soon as is practical after the City's health care professional has certified that the employee is able to perform the Test safely and to the best of his/her ability. When evaluating an employee's ability to take the test, the City's health care professional may simultaneously evaluate the employee to determine his/her physical fitness for duty.

Subd. 7. Failure to Take Test

Failure to take the Test, except when excused pursuant to the provisions of Subd. 6, shall be considered insubordination. The first such offense shall be considered a Category B violation under the Department's disciplinary guidelines, however, the maximum disciplinary sanction for a first violation shall be a letter of reprimand. The principles of progressive discipline shall apply to subsequent violations. In addition to any discipline imposed, a new test date shall be assigned to the employee.

Subd. 8. Testing Incentive

An employee who takes the test as required or is excused from testing by the Employer shall receive the following:

1. The employee shall be eligible for reimbursement for the cost of a single membership at the club of his/her choice pursuant to the terms of Section 29.02 Subd. 3.

2. These benefits shall become effective four times per calendar year on the following "Entry Dates": on the first day of the first payroll period after January 1, April 1, July 1 and October 1

Subd. 9. Fitness Improvement Assistance

The Department will make a variety of resources available to employees who seek assistance in improving and maintaining their level of fitness. These resources will include written materials on exercise, diet, smoking cessation and other relevant health and wellness issues; educational programming; and personal consultations to evaluate an employee's needs and to recommend an appropriate program for improvement. The Department and Federation will continue to review other ideas to improve fitness such as a mentoring program, individual or team competitions or other assistance/motivational programs.

Subd. 10. Fitness Level as Factor in Performance

An employee's performance on the Test relative to the Goals will be considered as a factor in the evaluation of the employee's overall job performance.

Subd. 11. Suspension of Testing

Notwithstanding any provisions of this article to the contrary; the Department, at its sole discretion, may postpone for a period of up to three months or suspend for more than three months or for an indefinite period the administration of the annual fitness test. If the Department exercises its right to postpone testing, the employees for whom testing was postponed shall be tested at the next available opportunity upon the resumption of testing. If the Department exercises its right to suspend testing, it shall notify the Federation in writing not less than one month prior to the month in which testing is to be suspended. Such suspension of testing shall remain in effect until the Department notifies the Federation in writing that testing shall be resumed. Such notice of the resumption of testing shall be given not less than 90 days prior to the resumption of testing. If testing is suspended during any portion of a calendar year, *all* employees shall be treated during such calendar as though they had taken the test. The foregoing shall apply to: employees who did not take the test; and any employees who took the test at any time during the calendar year, whether prior to the suspension of testing or after the resumption of testing, without regard to whether he/she achieved the Goal for each Component.

Section 29.02 - Health Club Memberships and GXT Test.

Subd. 1. Eligibility

All employees covered by this Agreement are eligible for reimbursement for the cost of a single membership at an approved facility designated pursuant to the terms of this Agreement ("Approved Facility") and an annual voluntary GXT Test or other preventative medical test mutually agreed upon by the parties (the "Annual Test").

Subd. 2. GXT Test

The cost of the Annual Test for all eligible employees shall be paid by the City. Because the Annual Test is voluntary, the results shall not be provided to the employer by the test administrator. Therefore, any follow-up medical treatment resulting from the Annual Test shall be at the discretion and the expense of the employee. Nothing herein shall limit or affect any rights or benefits under Workers' Compensation statutes, disability benefit statutes or other applicable laws.

Subd. 3. Reimbursement for Approved Facility

Subject to the limitation in Subd. 4, below, reimbursement for the cost of a single membership at an Approved Facility(s) shall be made once per year to any employee who, between January 1 and January 31 of the following year, submits proof of the cost of the membership during the preceding calendar year. Reimbursement payments shall be made to employees on or before the last day of February, subject to normal withholding for taxes. Proof of cost may be made by invoices, account statements or verification from the Approved Facility. An employee who separates from service during the calendar year may seek reimbursement, subject to the limitation, for amounts paid by the employee for the cost of the membership during the year up to and including the month in which the employee separates from employment.

Subd. 4. Limitation on Reimbursement

The amount that can be reimbursed by the City for a single membership at an Approved Facility shall not exceed $550. Beginning in 2018, and continuing thereafter, the amount of this limitation shall be adjusted as follows:

(a) In January, 2018, and during each January thereafter, the Health Club Committee, described in Subd. 5, below, shall determine average cost of the lowest published rate (meaning the rate available to the general public, exclusive of negotiated corporate rates or rates negotiated by the City for its employees) for a single club membership at the following facilities: YMCA of the Twin Cities, YWCA of Minneapolis, Life Time Fitness, Anytime Fitness, and Snap Fitness.

(b) The amount of the limitation on reimbursement shall be adjusted from the previous year by the percentage change in the average cost of a single membership from the previous year.

Subd. 5. Selection of Approved Facilities

Approved Facilities shall be any facility that meets the criteria established by the Health Club Committee consisting of a representative selected by the Police Administration, a representative selected by the Fire Administration, a representative selected by the Police Federation and a representative

selected by IAFF Local 82. The City shall maintain and make available to employees a list of Approved Facilities.

Subd. 6. No Workouts During Working Hours
No employee may work out while on duty, except as authorized by the Chief.

ARTICLE 30
DRUG AND ALCOHOL TESTING

Section 30.01 - Purpose Statement

Abuse of drugs and alcohol is a nationwide problem. It affects persons of every age, race, sex and ethnic group. It poses risks to the health and safety of employees of the City of Minneapolis and to the public. To reduce those risks, the City and the Federation, by collective bargaining, adopted this Agreement concerning drugs and alcohol in the workplace. This Agreement establishes standards concerning drugs and alcohol which all employees must meet and it establishes a testing procedure to ensure that those standards are met.

This drug and alcohol testing Article is intended to conform to the provisions of the Minnesota *Drug and Alcohol Testing in the Workplace Act* (*Minnesota Statutes* §181.950 to 181.957), as well as the requirements of the federal *Drug-Free Workplace Act of 1988* (*Public Law* 100-690, Title V, Subtitle D) and related federal regulations. Nothing in this Article shall be construed as a limitation upon the Employer's obligation to comply with federal law and regulations regarding drug and alcohol testing.

Section 30.02 - Work Rules

(a) No employee shall be under the influence of any drug or alcohol while the employee is working or while the employee is on the Employer's premises or operating the Employer's vehicle, machinery, or equipment, except pursuant to a valid medical reason or when approved by the Employer as a proper law enforcement activity.

(b) No employee shall use, possess, sell or transfer drugs, alcohol or drug paraphernalia while the employee is working or while the employee is on the Employer's premises or operating the Employer's vehicle, machinery or equipment, except pursuant to a valid medical reason, as determined by the Medical Review Officer, or when approved by the Employer as a proper law enforcement activity.

(c) No employee, while on duty, shall engage or attempt to engage or conspire to engage in conduct which would violate any law or ordinance concerning drugs or alcohol, regardless of whether a criminal conviction results from the conduct.

(d) As a condition of employment, no employee shall engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the Employer's workplace.

(e) As a condition of employment, every employee must notify the Employer of any criminal drug statute conviction no later than five (5) days after such conviction.

(f) Any employee who receives a criminal drug statute conviction, if not discharged from employment, must within thirty (30) days satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency.

(g) The Employer shall notify the granting agency within ten (10) days after receiving notice of a criminal drug statute conviction from an employee or otherwise receiving actual notice of such conviction.

Section 30.03 - Person Subject To Testing

All employees are subject to testing under applicable sections of this Article. However, no person will be tested for drugs or alcohol under this Article without the person's consent. The Employer will require an individual to undergo drug or alcohol testing only under the circumstances described in this Article.

Section 30.04 - Circumstances For Drug Or Alcohol Testing

A. Reasonable Suspicion Testing. The Employer may, but does not have a legal duty to, request or require an employee to undergo drug and alcohol testing if the Employer or any supervisor of the employee has a reasonable suspicion (a belief based on specific facts and rational inferences draw from those facts) related to the performance of the job that the employee:

1. Is under the influence of drugs or alcohol while the employee is working or while the employee is on the Employer's premises or operating the Employer's vehicle, machinery, or equipment; or

2. Has used, possessed, sold or transferred drugs, alcohol or drug paraphernalia while the employee was working or while the employee was on the Employer's premises or operating the Employer's vehicle, machinery or equipment (other than in connection with the employee's official duties); or

3. Has sustained a personal injury as that term is defined in *Minnesota Statutes* §176.011, Subd. 16, or has caused another person to die or sustain a personal injury; or

4. Was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident resulting in property damage or personal injury and the Employer or investigating supervisor has a reasonable suspicion that the cause of the accident may be related to the use of drugs or alcohol; or

5. Has discharged a firearm loaded with bullets, slugs or shot other than: (1) on an established target range; (2) while conducting authorized ballistics tests; (3) while engaged in recreational hunting activities; or (4) when authorized by a supervisor to shoot a wounded or dangerous animal or to disable a light, lock or other object which presents an impediment or hazard to an officer who is carrying out his/her lawful duties.

More than one Agent of the Employer shall be involved in determinations under subsections A.1. and A.2. of this Section 30.04.

The mere request or requirement that an employee be tested pursuant to subparagraph 3, 4 or 5, above, does not constitute an admission by the employer or the employee that the employee has caused an accident or death or injury to another nor does it create or establish any legal liability for the employer or the employee to another person or entity.

B. Treatment Program Testing. The employer may request or require an employee to submit to drug and alcohol testing if the employee is referred for chemical dependency treatment by reason of having a positive test result under this Article or is participating in a chemical dependency treatment program under an employee benefit plan. In such case, the employee may be required to submit to drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following notification that he/she will be subjected to Treatment Program Testing.

C. Unannounced Testing by Agreement. The employer may request or require an employee to submit to drug and alcohol testing without prior notice on terms and conditions established by a written "last-chance" agreement between the Employer and employee's collective bargaining representative.

D. Testing Pursuant to Federal Law. The employer may request or require an employee to submit to testing as may be necessary to comply with federal law and regulations. It is the intent of this Article that federal law preempts both state drug and alcohol testing laws and City policies and agreements. If this Article conflicts with federal law or regulations, federal law and regulations shall prevail. If there are conflicts between federal regulations and this Article, attributed in part to revisions to the law or changes in interpretations, and when those changes have not been updated or accurately reflected in this policy, the federal law shall prevail.

Section 30.05 - Refusal To Undergo Testing

A. **Right to Refuse**. Employees have the right to refuse to undergo drug and alcohol testing. If an employee refuses to undergo drug or alcohol testing requested or required by the Employer, no such test shall be given.

B. **Consequences of Refusal.** If any employee refuses to undergo drug or alcohol testing requested or required by the Employer, the Employer may subject the employee to disciplinary action up to and including discharge from employment.

C. **Refusal on Religious Grounds.** No employee who refuses to undergo drug or alcohol testing of a blood sample upon religious grounds shall be deemed to have refused unless the employee also refuses to undergo alternative drug or alcohol testing methods.

D. **Failure to Provide a Valid Sample with a Certified Result.** Failure to provide a Valid Sample with a Certified Result shall constitute a refusal to undergo drug or alcohol testing under this Section 30.05. A "failure to provide a Valid Sample with a Certified

Result" means: 1) failing to provide a valid sample that can be used to detect the presence of drugs and alcohol or their metabolites; 2) providing false information in connection with a test; 3) attempting to falsify test results through tampering, contamination, adulteration, or substitution; 4) failing to provide a specimen without a legitimate medical explanation; or 5) demonstrating behavior which is obstructive, uncooperative, or verbally offensive, and which results in the inability to conduct the test.

Section 30.06 - Procedure For Testing

A. **Notification Form**. Before requiring an employee to undergo drug or alcohol testing, the Employer shall provide the individual with a form on which to (1) acknowledge that the individual has seen a copy of this *Drug and Alcohol Testing Article*, and (2) indicate consent to undergo the drug and alcohol testing.

B. Collecting the Test Sample. The test sample shall be obtained in a private setting, and the procedures for taking the sample shall ensure privacy to employees to the extent practicable, consistent with preventing tampering with the sample. All test samples shall be obtained by or under the direct supervision of a health care professional.

C. **Testing the Sample.** The handling and testing of the sample shall be conducted in the manner specified in Minn. Stat. §181.953 by a testing laboratory which meets, and uses methods of analysis which meet the criteria specified in Subds. 1, 3, and 5 of that statute.

D. **Thresholds.** The threshold of a sample to constitute a positive result alcohol, drugs, or their metabolites is contained in the standards of one of the programs listed in MN Statute §181.953, Subd.1. The employer shall, not less than annually, provide the Federation with a list or *access to a list* of substances tested for under this Article and the threshold limits for each substance. In addition, the employer shall notify the Federation of any changes to the substances being tested for and of any changes to the thresholds at least thirty (30) days prior to implementation.

E. **Positive Test Results**. In the event an employee tests positive for drug use, the employee will be provided, in writing, notice of his/her right to explain the test results. The employee may indicate any relevant circumstance, including over the counter or prescription medication taken within the last thirty (30) days, or any other information relevant to the reliability of, or explanation for, a positive test result.

Section 30.07 - Rights Of Employees

Within three (3) working days after receipt of the test result report from the Medical Review Officer, the Employer shall inform in writing an employee who has undergone drug or alcohol testing of:

A. A negative test result on an initial screening test or of a negative or positive test result on a confirmatory test;

B. The right to request and receive from the Employer a copy of the test result report;

C. The right to request within five (5) working days after notice of a positive test result a confirmatory retest of the original sample at the employee's expense at the original testing laboratory or another licensed testing laboratory;

D. The right to submit information to the employer's Medical Review Officer within three (3) working days after notice of a positive test result to explain that result; indicate any over the counter or prescription medications that the employee is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result;

E. The right of an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the Employer not to be discharged unless the employee has been determined by a Minnesota Licensed Alcohol and Drug Counselor (LADC) or a physician trained in the diagnosis and treatment of chemical dependency to be chemically dependent and the Employer has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the Employer after consultation with a Minnesota LADC or a physician trained in the diagnosis and treatment of chemical dependency, and the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion;

F. The right to not be discharged, disciplined, discriminated against, or requested or required to undergo rehabilitation on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test;

G. The right, if suspended without pay, to be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative;

H. The right to not be discharged, disciplined, discriminated against, or required to be rehabilitated on the basis of medical history information revealed to the Employer concerning the reliability of, or explanation for, a positive test result unless the employee was under an affirmative duty to provide the information before, upon, or after hire;

I. The right to review all information relating to positive test result reports and other information acquired in the drug and alcohol testing process, and conclusions drawn from and actions taken based on the reports or acquired information;

J. The right to suffer no adverse personnel action if a properly requested confirmatory retest does not confirm the result of an original confirmatory test using the same drug or alcohol threshold detection levels as used in the original confirmatory test.

K. The right to suffer no adverse personnel action based solely on the fact that the employee is requested to submit to a test.

Section 30.08 - Action After Test

The Employer will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee solely on the basis of requesting that an employee submit to a test or on the existence of a positive test result from an initial screening test that has not been verified by a confirmatory test.

A. **Positive Test Result.** Where there has been a positive test result in a confirmatory test and in any confirmatory retest (if the employee requested one), the Employer will do the following unless the employee has furnished a legitimate medical reason for the positive test result:

1. **First Offense** - The employee will be referred for an evaluation by an LADC or a physician trained in the diagnosis and treatment of chemical dependency. If that evaluation determines that the employee has a chemical dependency or abuse problem, the Employer will give the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the Employer after consultation with and LADC or a physician trained in the diagnosis and treatment of chemical dependency. If the employee either refuses to participate in the counseling or rehabilitation program or fails to successfully complete the program, as evidenced by withdrawal or discharge from the program before its completion, the Employer may impose discipline, up to and including discharge.

2. **Second Offense** - Where an employee tests positive, and the employee has previously participated in one program of treatment required by the Employer, the Employer may impose discipline up to and including discharge of the employee from employment. In determining the appropriate level of discipline for a second offense, the Employer shall consider the employee's employment history and the length of time between the first and second offense.

B. Suspensions and Transfers.

1. **Pending Test Results From an Initial Screening Test or Confirmatory Test.** While awaiting the results from the Medical Review Officer, the employee shall be allowed to return to work unless the Employer reasonably believes that restrictions on the employee's work status are necessary to protect the health or safety of the employee, other City employees, or the public, and the conduct upon which the employee became subject to drug and alcohol testing would, independent of the of the results of the test, be grounds for discipline. In such circumstances, the employer may temporarily suspend the tested employee with pay, place the employee on paid investigatory leave or transfer the employee to another position at the same rate of pay.

2. **Pending Results of Confirmatory Retest. Confirmatory retests of the original sample are at the employee's own expense.** When an employee requests that a confirmatory retest be conducted, the employer may place the employee on unpaid leave, place the employee on paid investigatory leave or

transfer the employee to another position at the same rate of pay provided the Employer reasonably believes that restrictions on the employee's work status are necessary to protect the health or safety of the employee, other City employees, or the public. An employee placed on unpaid leave may use his/her accrued and unused vacation or compensatory time during the time of leave. An employee who has been placed on unpaid leave must be made whole if the outcome of the confirmatory retest is negative.

3. **Rights of Employee in Event of Work Restrictions.** In situations where the employee is not allowed to remain at work until the end of his/her normal work day pursuant to this Paragraph B, the Employer may not prevent the employee from removing his/her personal property, including but not limited to the employee's vehicle, from the Employer's premises. If the employer reasonably believes that upon early dismissal from work under this paragraph the employee is about to commit a criminal offense by operating a motor vehicle while impaired by drugs or alcohol, the Employer may advise the employee that law enforcement action may be taken if the employee attempts to drive.

C. **Other Misconduct.** Nothing in this Article limits the right of the Employer to discipline or discharge an employee on grounds other than a positive test result in a confirmatory test, subject to the requirements of law, the rules of the Civil Service Commission, and the terms of this collective bargaining agreement. For example, if evidence other than a positive test result indicates that an employee engaged in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the Employer's workplace, the employee may receive a warning, a written reprimand, a suspension without pay, a demotion, or a discharge from employment, depending upon the circumstances, and subject to the above requirements.

D. **Treatment Program Testing.** The Employer may request or require an employee to undergo drug and alcohol testing pursuant to the provisions of Section 30.04, Subd. 2.

Section 30.09 - Data Privacy

The purpose of collecting a body component sample is to test that sample for the presence of drugs or alcohol or their metabolites. A sample provided for drug or alcohol testing will not be tested for any other purpose. The name, initials and social security number of the person providing the sample are requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result are requested to ensure that the test is reliable and to determine whether there is a legitimate medical reason for any drug or alcohol in the sample. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the person's employment status. The Employer will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the person tested, unless permitted by law or court order.

Section 30.10 - Appeal Procedures

A. Employees may appeal discipline imposed under this Article through the Dispute Resolution Procedure contained in the Collective Bargaining Agreement (i.e. grievance procedure) or to the Minneapolis Civil Service Commission.

B. Concerning disciplinary actions taken pursuant to this drug and alcohol testing Article which are appealed to the Minneapolis Civil Service Commission, available appeal procedures are as follows:

(1) Non-Veterans on Probation: An employee who has not completed the probationary period and who is not a Veteran has no right of appeal to the Civil Service Commission.

(2) Non-Veterans After Probation: An employee who has completed the probationary period and who is not a Veteran has a right to appeal to the Civil Service Commission only a suspension of over thirty (30) days, a permanent demotion (including salary decreases), or a discharge, if the employee submits a notice of appeal within ten (10) calendar days of the date of mailing by the Employer of notice of the disciplinary action.

(3) Veterans: An employee who is a Veteran has a right to appeal to the Civil Service Commission a permanent demotion (including salary decreases), or a discharge, if the employee submits a notice of appeal within sixty (60) calendar days of the date of mailing by the Employer of notice of the disciplinary action, regardless of status with respect to the probationary period. An employee who is a Veteran has a right to appeal to the Civil Service Commission a suspension of over thirty (30) days if the employee submits a notice of appeal within ten (10) calendar days of the date of mailing by the Employer of notice of the disciplinary action. An employee who is a Veteran may have additional rights under the Veterans Preference Act, *Minnesota Statutes* §197.46.

C. All notices of appeal must be submitted in writing to the Minneapolis Civil Service Commission, Room #100 Public Service Center, 250 South 4th Street, Minneapolis, MN 55415-1339.

Section 30.11 - Employee Assistance

Drug and alcohol counseling, rehabilitation, and employee assistance are available from or through the Employer's employee assistance program provider(s) (E.A.P.).

Section 30.12 - Distribution

Each employee engaged in the performance of any federal grant or contract shall be given a copy of this Article.

Section 30.13 - Definitions

A. ***Confirmatory Test*** and ***Confirmatory Retest*** mean a drug or alcohol test that uses a method of analysis allowed by the Minnesota *Drug and Alcohol Testing in the Workplace Act* to be used for such purposes.

B. ***Controlled Substance*** means a drug, substance, or immediate precursor in Schedules I through V of Minnesota Statute § 152.02.

C. ***Conviction*** - means a finding of guilt (including a plea of nolo contendere (no contest)) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

D. ***Criminal Drug Statute*** means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

E. ***Drug*** means a controlled substance as defined in *Minnesota Statutes* §152.01, Subd. 4.

F. ***Drug and Alcohol Testing***, ***Drug or Alcohol Testing***, and ***Drug or Alcohol Test*** mean analysis of a body component sample approved according to the standards established by the Minnesota *Drug and Alcohol Testing in the Workplace Act*, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

G. ***Drug-Free Workplace*** means a site for the performance of work done in connection with any federal grant or contract at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance.

H. ***Drug Paraphernalia*** has the meaning defined in *Minnesota Statutes* §152.01, Subd. 18.

I. ***Employee*** for the purposes of this Article means a person, independent contractor, or person working for an independent contractor who performs services for the City of Minneapolis for compensation, in whatever form, including any employee directly engaged in the performance of work pursuant to the provisions of any federal grant or contract.

J. ***Employer*** means the City of Minneapolis acting through a department head or any designee of the department head.

K. ***Federal Agency*** or ***Agency*** means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch or any independent regulatory agency.

L. ***Individual*** means a natural person.

M. ***Initial Screening Test*** means a drug or alcohol test which uses a method of analysis allowed by the Minnesota Drug and Alcohol Testing in the Workplace Act to be used for such purposes.

N. ***Legitimate Medical Reason*** means (1) a written prescription, or an oral prescription reduced to writing, which satisfies the requisites of *Minnesota Statutes* §152.11, and names the employee as the person for whose use it is intended; and (2) a drug prescribed, administered and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in *Minnesota Statutes* §152.12; and (3) a drug used in accord with the terms of the prescription. Use of any

over-the-counter medication in accord with the terms of the product's directions for use shall also constitute a *legitimate medical reason.*

O. ***Medical Review Officer*** means a physician certified by a recognized certifying authority who reviews forensic testing results to determine if a legitimate medical reason exists for a laboratory result.

P. ***Positive Test Result*** means a finding of the presence of alcohol, drugs or their metabolites in the sample tested in levels at or above the threshold detection levels as published by the employer pursuant to Section 30.06, Subd. 4 of this Article.

Q. ***Reasonable Suspicion*** means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

R. ***Under the Influence*** means having the presence of a drug or alcohol at or above the level of a positive test result.

S. ***Valid Sample with a Certified Result*** means a body component sample that may be measured for the presence or absence of drugs, alcohol or their metabolites.

CITY OF MINNEAPOLIS
NOTIFICATION AND CONSENT FORM FOR DRUG AND ALCOHOL TESTING
(REASONABLE SUSPICION)
AND DATA PRACTICES ADVISORY

I acknowledge that I have seen and read the *Drug and Alcohol Testing Article (Article 30).* of the Collective Bargaining Agreement between the City of Minneapolis and the Police Officers Federation of Minneapolis. I hereby consent to undergo drug and/or alcohol testing pursuant to Article 30, and I authorize the City of Minneapolis through its agents and employees to collect a sample from me for those purposes.

I understand that the procedure employed in this process will ensure the integrity of the sample and is designed to comply with medicolegal requirements.

I understand that the results of this drug and alcohol testing may be discussed with and/or made available to my employer, the City of Minneapolis. I further understand that the results of this testing may affect my employment status as described in Article 30.

The purpose of collecting a sample is to test that sample for the presence of drugs and alcohol. A sample provided for drug and alcohol testing will not be tested for any other purpose. The name, initials and social security number of the person providing the sample may be requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result will be requested by the Medical Review Officer (MRO) to ensure that the test is reliable and to determine whether there is a legitimate medical reason for any drug, alcohol, or their metabolites in the sample.

The MRO may only disclose to the City of Minneapolis test result data regarding presence or absence of drugs, alcohol, or their metabolites, in a sample tested. The City of Minneapolis or laboratory may not disclose the test result reports and other information acquired in the drug testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the person tested, unless permitted by law or court order. Evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minnesota Statutes, Chapter 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed as required by law, court order, or subpoena. Positive test results may not be used as evidence in a criminal action against the employee tested.

_____	_____
Name (Please Print or Type)	Social Security Number
_____	_____
Signature	Date
_____	_____
Witness	Date

ARTICLE 31
FITNESS FOR DUTY

Section 31.01 - Statement of Policy and Purpose

The Minneapolis Police Department and its employees know that the performance of law enforcement duties is inherently demanding and that such duties are sometimes performed under dangerous conditions and/or in a stressful environment. It is, therefore, important to the Department for the safety of its employees and the public to ensure that all personnel in the service of the Department are medically, psychologically and emotionally fit for duty. It shall be the policy of the Minneapolis Police Department to require fitness for duty examinations in accordance with the provisions set forth herein.

It is the purpose of this Article is to establish standards and procedures for identifying and diagnosing officers of the Department who may suffer from medical, psychological or emotional conditions which impair their ability to perform their job duties satisfactorily. This Article shall be administered in a manner which is consistent with the Department's desire to treat affected employees with dignity and respect under such circumstances and to provide information and assistance to them concerning their fitness for duty.

It is the goal of the City of Minneapolis to have healthy and productive employees and to facilitate successful treatment for those employees experiencing debilitating health problems. In furtherance of this goal, the Department is committed to applying this Article to promote rehabilitation, rather than discipline, while minimizing the interruption to the employee's life and career and to the employer's operations.

Section 31.02 - Circumstances Requiring Fitness For Duty Examinations

The Department may require an employee to be examined under this Article in the circumstances described below:

(a) Where there exists a reasonable cause to believe, based upon specific observations and facts and rational inferences drawn from those observations and facts, that an employee may not be medically, psychologically or emotionally fit to perform the essential functions of the position to which he or she is assigned without accommodation. Such reasonable suspicion must be based upon: the observations of at least two supervisors or co-workers who have first-hand knowledge; or upon reliable information provided to a supervisor that the employee is currently exhibiting conduct which reasonably demonstrates that the employee may be suffering from a physical or mental condition which prevents the employee from effectively performing his/her duties. The decision to require an employee to be examined will be made by a supervisor at or above the rank of Inspector for precinct personnel, or at or above Commander for non-precinct personnel, after due diligence to confirm the reliability of the information.

(b) Where an employee is returning to active service after a leave of absence without pay or similar absence or where the employee has been outside of the Department's observation or control for a period longer than six (6) calendar months.

(c) Where an employee is returning to active service after a serious illness, injury or medical condition whether or not the employee's personal physician has placed restrictions on the employee's job-related activities.

(d) Where an employee has been involved in a critical incident where the potential for physical or psychological trauma to the employee was significant.

(e) Where the employee contends he/she is not medically, psychologically or emotionally fit for duty.

The provisions set forth in paragraphs (b) and (c) above shall not apply to psychological evaluations. However, a Health Care Professional evaluating an employee's physical fitness for duty may recommend that an employee he/she has examined be referred for a psychological evaluation, subject to the provisions of Section 31.04 below.

Nothing under this Article 31 shall establish a basis for Drug or Alcohol Testing. Drug and Alcohol testing shall be governed solely by Article 30 of this Agreement and applicable law. However, if the Health Care Professional evaluating the employee reasonably believes the employee, due to alcohol or drug use, may pose a danger to him/herself or others, the Health Care Professional will notify the Employer of such danger and indicate the symptoms or signs the Employer should look for to minimize the danger. If the danger is considered immediate, the Health Care Professional will summon a ranking member of the MPD administration.

Section 31.03 - Procedures Prior to Exam

Subd. 1. Step 1 - Documentation of Referral Notice and Information to Employee

When any one of the circumstances for examination exists and the related requirements have been satisfied, as set forth in Section 31.02, the Chief shall provide written notice to the employee of the referral for a fitness for duty evaluation. Such notice shall specify: which of the circumstances set forth in Section 31.02 provide the basis for the referral; the name and contact information of the physician or clinic to be conducting the exam; the reason why the doctor is being asked to evaluate and the suspected impact upon the employee's ability to effectively perform his/her duties (not required if the referral is made under 31.02,(b)); and the date and time of the appointment. The notice shall be given in advance of the appointment so that the employee has an opportunity to consult with the Federation and/or his/her personal advisor. At the same time as such notice is given, the Employer shall along with the notice, give the employee a copy of all information to be provided by the Department to the Health Care Professional and a summary of all oral communication therewith, unless it is believed that the information in the report is likely to cause harm to the employee or to others, in which case the Federation will be informed of the decision.

Subd. 2. Step 2 - Employee's Duty Status

At such time as the Department determines that an employee shall be required to submit to a fitness for duty evaluation and/or during the time any controversy concerning the employee's fitness for duty is being resolved, the Department may, in its sole discretion, reassign the employee to other duties or relieve the employee from duty. In the latter event, the employee shall be placed on paid leave of absence status which may be revoked if the employee fails to fully cooperate with the Department or its examining physicians and/or other licensed medical providers.

Section 31.04 - Psychological Evaluations; Reasonable Basis; Appeals

No psychological evaluations shall be required in the absence of a recommendation by the Department's examining physician or other licensed medical provider who has a reasonable basis for requiring the psychological evaluation. If able the Department and/or Department's examining physician shall inform the employee of such reasonable basis at the time he/she is ordered to report for the required psychological examination unless the examining physician or other licensed medical provider documents with reasonable specificity that disclosure of the information in the report is likely to cause harm to the employee or to others. In such cases, the information shall be handled and/or disclosed in a manner consistent with prevailing medical and/or legal authority.

If the employee disputes the accuracy or legitimacy of the facts upon which the Department's examining physician or other licensed medical provider has relied on concluding that a reasonable basis exists for the required psychological evaluation, the employee may file a grievance contesting the requirement that he/she submit to the examination. In such event, the employee shall not be required to report for the psychological evaluation until the grievance has been resolved under the expedited arbitration procedures of the Collective Bargaining Agreement. The arbitrator's authority shall be limited to making findings of fact with regard to the disputed facts underlying the reasonable basis. The arbitrator does not have the authority to overturn the medical opinion of the examining physician or other licensed medical provider. The Department may relieve the employee from duty without pay or reassign the employee to other duties during the pendency of the grievance resolution proceedings but shall not discipline or discharge the employee for refusing to submit to the psychological evaluation unless the employee refuses to undergo psychological evaluation after an arbitrator has determined, or the Department and the Federation agree, as to the accuracy or legitimacy of the underlying factual basis for the referral. If an employee is relieved without pay, he/she may use available benefits in order to continue in paid status. If an employee is relieved without pay and it is subsequently determined that the Department lacked a reasonable basis to require a psychological evaluation, the Department shall make the employee whole by paying the employee for lost work days and/or restoring his/her benefit banks.

Section 31.05 - Examining Physicians; Costs

The physicians and/or other licensed medical providers relied upon by the Department in the administration of this Article shall be selected and contracted by the Department. To minimize the delay in evaluating the employee, the Department shall have more than one physician and/or licensed medical personnel to conduct fitness for duty evaluations. The Department shall bear all costs associated with fitness for duty examinations required under this Article and all time required by such examinations shall be regarded as "work time" under the Fair Labor Standards Act and the provisions of this Collective Bargaining Agreement.

Section 31.06 - Medical Records; Private

All medical data and records relied upon by the Department in the administration of this Article shall be classified as private data on individuals as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et. seq. All reports, correspondence, memoranda or other records which contain medical data on an employee shall be made available only to the Chief of the Department, those who have the authority and responsibility to represent the interests of the Department in claims involving the Department in any forum or otherwise and others who may specifically be authorized by the employee to receive such data. The Department shall request an opinion from the Office of the City Attorney in instances where questions arise over the proper distribution or handling of medical data relied upon by

the Department in the administration of this Article or in connection with the Department's response to any finding that an employee is not fit for duty.

Section 31.07 - Adverse Findings; Appeals

Where it is determined that an employee is not fit for duty, the examining physician shall prepare a written report which includes:

(a) A statement as to whether the employee, is medically and/or psychologically able to perform the essential functions of the job; and

(b) A statement of what, if any, work restrictions the employee has; and

(c) A prognosis for recovery.

A copy of the examining physician's written report shall be provided to the Chief of the Department, those who have authority and responsibility to represent the interests of the Department in claims involving the Department in any forum or otherwise, and others who may specifically be authorized by the employee to receive such data.

In addition to the report provided to the Chief of the Department, the employee may also at the discretion of the examining physician, be provided with additional information including:

(a) A specific diagnosis of the medical condition and the reasons why such problem renders the employee unfit for duty;

(b) A statement of any accommodation that would enable the employee to perform the essential functions of his/her job; a specific treatment plan, if any; and

(c) A prognosis for recovery and a specific schedule concerning re-examination;

unless the examining physician or other licensed medical provider documents with reasonable specificity that disclosure of the information in the report is likely to cause harm to the employee or to others. In such cases, the information shall be handled and/or disclosed in a manner consistent with prevailing medical and/or legal authority.

In the event the employee disagrees with the determination of the examining physician or other licensed medical provider that he/she is not medically, psychologically, or emotionally fit for duty, the employee may submit medical information from a physician or other licensed medical provider of his/her own choosing. The employee shall be responsible for all costs associated with the second opinion unless such costs are covered by the employee's medical insurance. Where the employee's physician and the Department's physician have issued conflicting opinions concerning the employee's fitness for duty, the Department shall encourage the two physicians to confer with one another in an effort to resolve their conflicting medical opinions. If they are unable to do so within fifteen (15) calendar days after the date of the second opinion, the dispute concerning the employee's fitness for duty may be submitted by either party to a neutral examining physician or other licensed medical provider (the "Neutral Examiner") who has expertise regarding the medical, psychological or emotional disorder involved and who is knowledgeable of the environment in which law enforcement duties are performed. The decision of the

Neutral Examiner shall be final and binding on the parties. If the Neutral Examiner determines it necessary, the employee shall submit to an evaluation by the Neutral Examiner. If the Neutral Examiner determines that the employee is not fit for duty, he/she shall issue a written report which includes the information specified above. Notwithstanding the Provisions of Section 31.05, the cost of the Neutral Examiner, to the extent not covered by insurance, shall be split equally between the City and the Federation. The dispute resolution procedures outlined herein shall not apply to Workers' Compensation cases. The Federation and the Department shall establish a list of not less than three qualified Neutral Examiners. In the event the services of a Neutral Examiner are required, the employee shall select the Neutral examiner from the established list.

Section 31.08 - Layoff for Medical Reasons

When an employee who has been found to be not medically or psychologically fit for duty has exhausted his/her eligibility for Family Medical Leave, sick leave, vacation, and compensatory time banks, the employee may be laid off for medical reasons until he/she is again capable of resuming the duties. The employee's recall from layoff shall be governed by Section 21.03; however, the Department may require a satisfactory medical report from the City's health services provider(s) before re-employment. Generally, if the period of time an employee is expected to be off the job is less than six months, a leave without pay (Medical Leave of Absence) may be more appropriate.

ARTICLE 32
SAVINGS CLAUSE

Any provisions of this Agreement held to be contrary to law by a court of competent jurisdiction from which final judgment or decree no appeal has been taken within the time provided by law, shall be void. All other provisions shall continue in full force and effect.

ARTICLE 33
TERM OF AGREEMENT

Section 33.01 - Term of Agreement and Renewal
This Agreement shall be effective as of January 1, 2017 and shall remain in full force and effect to and including December 31, 2019 subject to the right on the part of the City or the Federation to open this Agreement by written notice to the other Party not later than June 30, 2019. Failure to give such notice shall cause this Agreement to be renewed automatically for a period of twelve (12) months from year to year.

Section 33.02 - Post-Expiration Life of Agreement
In the event such written notice is given and a new Agreement is not signed by the expiration date of the old Agreement, then this Agreement shall continue in force until a new Agreement is signed. It is mutually agreed that the first meeting will be held no later than twenty (20) calendar days after the City or Federation receives such notification.

Section 33.03 - Compensation for Retired Employees, Post-Expiration of Agreement
Employees who retire after the expiration of this Agreement but before the execution of a successor agreement shall be entitled to compensation for hours worked after the expiration of the Agreement at the rate of pay established pursuant to the successor agreement.

[SIGNATURE PAGE TO FOLLOW]

SIGNATORY PAGE

NOW, THEREFORE, the Parties have caused this Agreement to be executed by their duly authorized representatives whose signatures appear below:

FOR THE CITY:

Timothy Giles — Date
Director, Employee Services

FOR THE ASSOCIATION:

Bob Kroll — Date
President

James P. Michels — Date
Federation Attorney

APPROVED AS TO FORM:

Assistant City Attorney — Date
For City Attorney

CITY OF MINNEAPOLIS:

Spencer Cronk — Date
City Coordinator

COUNTERSIGNED:

Finance Officer — Date

ATTACHMENT "A"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

LETTER OF AGREEMENT
Medical Screening for Air Purifying Respirators

RECITALS

The City of Minneapolis (hereinafter "Employer") and The Police Officers' Federation of Minneapolis (hereinafter "Federation") are parties to a Collective Bargaining Agreement (the "CBA") that is currently in force.

The Employer has determined that all sworn personnel should be fitted for Air Purifying Respirators ("APRs").

The Occupational Safety and Health Administration ("OSHA") regulations provide that before fitting employees for an APR, the employee must provide medical information by completing a questionnaire or having a physical examination.

The Employer desires to use the medical information questionnaire for screening and to require all sworn personnel to complete the questionnaire.

The Federation has asserted that the requirement that all employees complete the questionnaire constitutes a "term and condition of employment" as defined by the Minnesota Public Employees Labor Relations Act ("PELRA").

The Federation has asserted concerns that the disclosure of medical information may have an adverse impact on the employment status of some of its members.

The parties desire to minimize the potential for future disputes and to proceed with providing APRs to all eligible employees on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

The Employer may require all employees in the rank of Police Officer, Sergeant, Lieutenant and Captain to complete the Respirator Certification Questionnaire (the "Questionnaire") in the form attached hereto as Exhibit A; provided that the same policies, practices and requirements as set forth herein are applied to all sworn personnel employed by the Department.

Upon completion, the employee will place the Questionnaire in a sealed envelope and return the envelope to his/her supervisor. All such envelopes will remain sealed and be sent to the City Doctor for review and evaluation. After they are reviewed, the Questionnaires will be returned to the Human Resources unit of the Department because the City Doctor does not have the capacity to store all of the Questionnaires. The Questionnaires will be enclosed in an enveloped marked "confidential" and stored by the Human Resources unit in a locked file cabinet. Other than filing and storing the documents and retrieving them at the request of the employee or the City Doctor, no MPD personnel will review or be allowed access to the contents of the Questionnaire. Further, the contents of the Questionnaire cannot be used against the employee in any action having an adverse impact on the employee's employment status.

If, based on the information in the Questionnaire, the City Doctor has concerns as to whether the employee would be able to safely wear a tight fitting APR mask, the employee may be required to be examined by the City Doctor.

If the City Doctor determines, whether by review of the Questionnaire or physical examination of the employee, that the employee cannot wear an APR, the employee will not be issued this type of mask and accommodations will be made for the employee to be provided with an alternative form of respiratory protection, if needed. Further, such a determination will have no adverse impact on the employee's employment status or eligibility for promotion unless the City Doctor discovers a serious, threatening health condition that would prevent the employee from safely and fully performing his/her duties as a police officer.

If the City Doctor discovers, whether by review of the Questionnaire or physical examination of the employee, evidence of a serious, threatening health condition that the doctor believes could prevent the employee from safely and fully performing his/her duties as a police officer, the City Doctor shall refer the employee to his/her personal physician. The employee shall have twenty-one (21) days from the date of referral by the City Doctor to obtain and submit to MPD Human Resources written verification from his/her personal physician that he/she is fit for duty. Employees who do not timely submit such written verification shall be referred to the City Doctor for a fitness for duty evaluation. The employee's personal physician will be provided with documentation as to the essential function of a police officer so he/she is able to make an informed decision as to the employee's duty status.

If the City Doctor discovers, whether by review of the Questionnaire or physical examination of the employee, evidence of a condition the nature of which the City Doctor believes may be immediately life-threatening, the City Doctor shall refer the employee to his/her personal physician. In such circumstances, the employee must be evaluated by his/her person physician before he/she can return to work in any capacity. For the day on which such referral is made and for the next two full days thereafter, the employee shall be placed on paid "administrative leave," except to the extent that he/she was not scheduled to work such days or had previously taken such days off. The employee may not return to work until he/she has obtained and submitted to MPD Human Resources written verification from his/her personal physician that he/she is fit to return for full duty or to return to work in some limited capacity. If the employee is not declared fit to return to work prior to the expiration of the Administrative Leave, he she may use accrued vacation, sick leave or compensatory time. If the employee's condition requires treatment and results in restrictions on his/her activities for more than one week, the employee must be examined by the City Doctor before returning to work even when the employee's own physician has declared them fit for duty. Depending on the determination of the City Doctor, the employee may be declared fit for full duty, fit for limited duty or not fit for duty. If the

employee is declared fit for limited duty, the employee may be placed on limited duty status and may be given a limited duty assignment if his/her commander determines that there is limited duty work for the employee to do.

The CBA shall remain in full force and effect. Further, Article 31 of the CBA shall apply with regard to the implementation of this Agreement, except that:

The failure of the employee to obtain and submit to MPD Human Resources written verification from their personal physician that they are fit for duty within the time period set forth in paragraph 5, above, shall constitute a circumstance in which the Department may require a fitness for duty evaluation under Section 31.02 of the CBA.

Where the City Doctor refers the employee to his/her personal physician for an immediately life-threatening condition and where that condition requires treatment and results in restrictions on the employee's activities for more than one week, such events shall constitute a circumstance in which the Department may require a fitness for duty evaluation under Section 31.02 of the CBA.

The dispute resolution provisions of Section 31.07 of the CBA shall apply to any dispute between the employee's doctor(s) and the City Doctor regarding the employee's fitness for full and unrestricted duty that may arise from the implementation of this Agreement.

The City Doctor shall not disclose to the Department or to any of its personnel (other than the affected employee) any specific information from the Questionnaire or from any subsequent examination of any employee. Notwithstanding the foregoing, the City Doctor may advise the Chief of Police: is not eligible to wear an APR; has been referred to be evaluated by his/her personal physician within 21 days; or has been referred to be evaluated by his/her personal physician for an immediately life-threatening condition that renders the employee unfit for duty.

THE PARTIES have caused this Letter of Agreement to be executed by their duly authorized representative whose signature appears below.

FOR THE CITY OF MINNEAPOLIS:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE FEDERATION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "B"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

MEMORANDUM OF UNDERSTANDING
Contract Related Matters "To Do"

This Memorandum of Understanding is made and entered by and between the City of Minneapolis (the "Employer") and the Police Officer's Federation of Minneapolis (the "Federation) to be included as part of the collective bargaining agreement between the Employer and the Federation for the period from January 1, 2017 to December 31, 2019. (the "Labor Agreement").

During the negotiations of the Labor Agreement, the parties agreed that they would undertake the following tasks and/or continue to meet and confer on the following issues in a timely manner. The parties further agree that, unless the parties enter into a written agreement signed by both of them which modifies or clarifies the Labor Agreement, the parties shall continue to be bound by the expressed terms and conditions of the Labor Agreement with regard to such issues.

The tasks to be undertaken and the issues about which the parties shall continue to meet and confer are:

Critical/traumatic Incident

The Employer and Federation will meet to discuss the best practices for the care and return to work of employees experiencing a critical or traumatic incident.

FOR THE CITY OF MINNEAPOLIS:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE FEDERATION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "C"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

LETTER OF AGREEMENT
2017 Health Care Insurance

WHEREAS, the City of Minneapolis (hereinafter "City") and the Police Officers Federation of Minneapolis (hereinafter "Union") are parties to a Collective Bargaining Agreement that is currently in force; and

WHEREAS, the Parties desire to provide quality health care at an affordable cost for the protection of employees, which requires a modification to the current Collective Bargaining Agreement as it relates to the funding of Health Care beginning January 1, 2017;

NOW, THEREFORE BE IT RESOLVED, that the parties agree as follows for the period January 1, 2017 through December 31, 2017:

1. The City will offer medical plans through Medica Insurance Company ("Medica"). Employees can elect to enroll in one of six (6) provider options. Medica Elect is a managed care model, Medica Choice is an open access model, and Fairview and North Memorial Vantage with Medica, Inspiration Health by HealthEast with Medica, Park Nicollet First with Medica and Ridgeview Community Network are accountable care organizations (ACOs).

2. Medica will continue a dual medical premium system that provides incentives for wellness program completion. The monthly medical premiums for subscribers who earn the required wellness program points by August 31, 2016 (the "wellness premiums") will be lower than the premiums for subscribers who do not earn the required wellness program points by August 31, 2016 (the "standard premiums"). Any changes to the wellness program requirements as described in the 2016 *My Health Rewards by Medica* brochure which is attached hereto and incorporated herein will be agreed upon by the Benefits Sub-committee of the Citywide Labor Management Committee. For 2017, the "wellness premium" will also apply to all employees who are newly enrolled in the medical plan after June 1, 2016.

3. For the period January 1, 2017 through December 31, 2017, the City will pay $530.00 or the cost of the premium, whichever is less, per month for employees who elect single coverage under the medical plan.

4. For the period January 1, 2017 through December 31, 2017, the City will pay $1,435.00 or the cost of the premium, whichever is less, per month for employees who elect family coverage under the medical plan.

5. The City will continue the Health Reimbursement Arrangement ("the Plan") which was established January 1, 2004 to provide reimbursement of eligible health expenses for participating employees, their spouse and other eligible dependents; and the Voluntary Employees' Beneficiary Association Trust (the "Trust") through which the Plan is funded.

6. The Plan shall be administered by the City or, at the City's sole discretion, a third party administrator.

7. The City shall designate a Trustee for the Trust. Such Trustee shall be authorized to hold and invest assets of the Trust and to make payments on instructions from the City or, at the City's discretion, from a third party administrator in accordance with the conditions contained in the Plan. Representatives of the City and up to three representatives selected by the Minneapolis Board of Business Agents shall constitute the VEBA Investment Committee which shall meet periodically to review the assets and investment options for the Trust.

8. The City shall pay the administration fees for Plan members who are current employees and other expenses pursuant to the terms of the Plan. Plan members who have separated from service will be charged the administration fee.

9. The City will make a contribution to the Plan in the annual amount of $1,080.00 for employees who elect single coverage and $2,280.00 for employees who elect family coverage in the City of Minneapolis Medical Plan. Such City contribution shall be made in semi-monthly installments equal to one-twenty fourth (1/24) of the designated amount and shall be considered to be contract value in the designated amount.

10. The Parties agree that, except for City contributions to the Plan or other negotiated payments to a tax-qualified health savings account, incentives, discounts or special payments provided to medical plan members that are not made to reimburse the member or his/her health care provider for health care services covered under the medical plan (e.g. incentives to use health club memberships or take health risk assessments) are not benefits for the purposes of calculating aggregate value of benefits pursuant to Minn. Stat. § 471.6161, Subd. 5.

11. Future cost sharing of premium costs between the employer and employees for medical plan and/or Plan contributions will be determined by the Benefits Sub-committee of the Citywide Labor Management Committee; however, absent a subsequent agreement, the City shall bear 82.5% of any generalized medical premium rate increase and the employees shall bear 17.5% of any generalized medical premium rate increase, as determined by Medica.

12. The unions shall continue to be involved with the selection of and negotiations with the medical plan carrier.

13. This agreement does not provide the unions with veto power over the City's decisions.

14. This agreement does not negate the City's obligation to negotiate with the unions as described by Minn. Stat. § 471.6161, Subd. 5.

15. The terms of this agreement shall be incorporated into the Collective Bargaining Agreement as appropriate without additional negotiations.

16. The Parties agree to re-negotiate the terms of this agreement in the event the City decides to implement self-insurance as the funding mechanism for the City of Minneapolis Medical Plan.

THE PARTIES have caused this Letter of Agreement to be executed by their duly authorized representative whose signature appears below:

FOR THE CITY OF MINNEAPOLIS:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE UNION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "D"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

LETTER OF AGREEMENT
Interpretation of Section 13.05 of the Labor Agreement (Shift differential)

RECITALS

A. The City of Minneapolis (hereinafter "Employer") and the Police Officers Federation of Minneapolis (hereinafter "Federation") are parties to a Collective Bargaining Agreement (hereinafter "Labor Agreement") that is currently in effect.

B. Section 13.05 of the Labor Agreement provides for the payment of a shift differential payable to employees who "work a scheduled shift in which a majority of the work hours fall between the hours of 6:00 p.m. and 6:00 a.m." Section 13.05 further provides that the shift differential shall be paid "for all hours worked on such shifts."

C. A dispute arose as to whether officers who do not normally work a shift qualifying for the differential do work a scheduled shift for which a majority of the hours fall between 6:00 p.m. and 6:00 a.m. This situation occasionally occurs when a day watch officer volunteers to work a night watch shift to cover shift minimums due to the absence (by sick leave or comp time usages) of a member of the night watch.

D. After discussing the issue during a Labor Management Committee meeting, the parties mutually agreed to resolve issues regarding the interpretation of Section 13.05 on the following terms without further cost to either party.

NOW THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. The intent of Section 13.05 of the Labor Agreement is that the eligibility to receive the shift differential is determined by the status of the shift rather than the employee; except with regard to an employee who is assigned to a qualifying nighttime Bid Assignment, as defined by Section 17.01, (e) or (f) of the Labor Agreement, and who is involuntarily assigned to work daytime hours.

2. Consistent with the intent expressed in Paragraph 1, above, the shift differential should be paid when an employee works "a scheduled shift" that qualifies for the differential regardless of whether the "scheduled shift" is that employee's regular shift and regardless of whether the employee volunteered to work such "scheduled shift."

3. Buy back hours worked pursuant to Section 20.03, Subd. 7 of the Labor Agreement are not a "scheduled shift" and, therefore, do not qualify for shift differential regardless of the time of day the buyback is worked and regardless of whether the buyback is worked by an employee who is assigned to a nighttime Bid Assignment.

4. The shift differential is not payable when an employee officer who is assigned to a nighttime Bid Assignment voluntarily agrees to work a "scheduled shift" for which a majority of the hours *do not* fall between 6:00 p.m. and 6:00 a.m.

5. The Employer will conduct an audit of payroll records for the period from June 1, 2008, through the implementation date of this Agreement for the purpose of identifying hours worked that should have qualified for the payment of shift differential as determined under the Labor Agreement, and the interpretation thereof as set forth herein, but for which the shift differential was not paid to the employee who worked such hours. Following the conclusion of the audit, the Employer will present the audit findings to the Federation not less than two weeks prior to the proposed date for implementing any back pay to allow the Federation an opportunity to raise questions or concerns regarding the audit. The audit shall be deemed final following the conclusion of the comment period. Back pay shall be paid to affected employees pursuant to the final audit as soon as is practical.

6. The Federation waives any grievances that may have arisen prior to the date hereof on the facts and issues addressed herein.

7. The Labor Agreement remains in full force and effect.

FOR THE CITY OF MINNEAPOLIS:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE FEDERATION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "E"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

MEMORANDUM OF AGREEMENT AND UNDERSTANDING
Standby Status for Specialized Investigators

RECITALS

A. **WHEREAS**, the City of Minneapolis (hereinafter "Employer") and the Police Officers Federation of Minneapolis (hereinafter "Federation") are parties to a Collective Bargaining Agreement (hereinafter "Labor Agreement") that is currently in force, and

B. **WHEREAS**, even though the Minneapolis Police Department (the "Department") staffs the Homicide Unit 24 hours per day, seven days per week, there is frequently the need for additional investigators during the night and on weekends; and

C. **WHEREAS**, the prior practice (prior to December, 2004) of calling in off-duty personnel was not always effective, did not equitably distribute the burden of intrusions into an employee's off-duty time, and resulted in much confusion and misunderstanding as to the expectations with regard to an employee's obligations and ability to decline a call-in; and

D. **WHEREAS**, in December, 2004, the Department implemented a new practice in which investigators in the Homicide Unit were told that they were "on standby," that they were expected to report for duty if called, and that they would be subject to discipline if they did not respond; and

E. **WHEREAS**, the Labor Agreement contains a provision regarding compensation for standby status; and

F. **WHEREAS**, the Department did not compensate the members of the Homicide Unit Federation for standby in accordance with the terms of the Labor Agreement; and

G. **WHEREAS**, the Federation filed a grievance over the compensation for standby; and

H. **WHEREAS**, the grievance has now been settled; and

I. **WHEREAS**, one element of consideration in settlement of the grievance was to establish reasonable compensation and conditions for standby status for investigators with specialized skills;

NOW THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. Notwithstanding the plain language of Section 20.03, Subd. 3 of the Labor Agreement to the contrary, the terms and conditions for standby status for Sergeants assigned to the Homicide Unit (the "Employees") shall be governed by the terms of this Agreement.

2. Employees may occasionally receive calls during their off duty hours to assist in resolving issues may arise. It is expected that, when available, employees will respond and for such response will be compensated pursuant to Section 20.03, Subd. 2 of the Labor Agreement. However, an employee who does not or is unable to respond during his/her off-duty time will not be subject to discipline for such lack of response unless he/she is "standby."

3. The term "standby" is limited to a status in which an employee, though off duty, is required by the Employer to refrain from the use of alcohol, be accessible and be fully prepared to report to the Homicide Office (Room 108) within sixty (60) minutes. The employee will receive clear and written advance notice that will specify the date and hours that he/she is to be on standby.

4. The Employer may assign employees to be on call under this Agreement for the limited purpose of providing assistance to on-duty investigators with regard to the investigation of homicides, kidnappings, officer involved shootings, or other serious crimes which necessitate immediate action by investigators with specialized skills. The duration of a standby assignment shall be not more than seven (7) consecutive days without the consent of the Employee and the Federation. The Employer will schedule standby assignments first by seeking volunteers and then by using an equitable rotation system. The scheduling of employees for standby should be of a reasonable duration and frequency, thus respecting the employee's personal life.

5. An employee may fulfill his/her obligation to serve a scheduled standby shift by finding a replacement to serve on standby. If an employee elects to fill his/her shift with a replacement, the employee originally scheduled to serve on standby shall give the Homicide Lieutenant advance written notice of the replacement. An employee shall be excused from a scheduled standby shift if he/she is on a pre-approved vacation or is sick.

6. An employee who is scheduled to be on standby shall be compensated with fifteen (15) minutes at his/her regular straight time rate (including longevity and any other applicable premium or differential) for each hour or part thereof that he/she is on standby if not called in to work. If called in to work, the employee will not receive the standby compensation for the time spent working, but will be compensated for such hours worked according to the call-in provisions of Section 20.03 Subd. 2 of the Labor Agreement. An employee who is scheduled to be on standby on any of the holidays designated in Section 23.01 shall be compensated with twenty (20) minutes at his/her regular holiday rate, as determined under Section 20.03, Subd. 9, for each hour or part thereof that he/she is on standby.

7. An employee on standby is required to respond to telephone calls of up to an aggregate time of thirty (30) minutes during the standby period without additional compensation. If the employee is required to spend more than thirty (30) minutes on the telephone, the aggregate telephone time will be treated as a call-in.

8. In order to expedite the response time of an employee who is called in to work, he/she shall be provided with the use of a fully-equipped squad car while on standby. If called in, the employee shall

sign on by radio upon departing for work and shall be compensated as working from the time of sign on until relieved of duty by a supervisor. Because an employee is not restricted from conducting personal business while on standby so long as he/she remains able to timely report to Room 108, reasonable personal use of the vehicle shall be allowed while on standby.

9. This Agreement does not apply to any employee of the Department other than Sergeants assigned to the Department's Homicide Unit.

10. This Agreement does not apply to court standby for employees of the Department's Homicide Unit or to any type of standby for such employees, other than the limited scope of investigative standby specified in paragraph 4, above.

11. The Labor Agreement remains in full force and effect, except as expressly modified by this Memorandum.

12. The Employer acknowledges and agrees that the terms of this Agreement constitute a reduction from the standby compensation payable under Section 20.03 Subd. 3 of the Labor Agreement and, therefore, does not constitute an increase in the compensation payable to members of the Federation. Accordingly, the Employer agrees that it will not and shall not assert in any forum that the existence or terms of this Agreement create a new or additional element of compensation payable to Federation members that should count against the Employer's "salary cap" unilaterally imposed in January, 2003, or against the aggregate economic value of any successor agreement to the Labor Agreement.

FOR THE CITY OF MINNEAPOLIS:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE UNION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "F"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

LETTER OF AGREEMENT
Job Bank and Related Matters

The above-entitled Parties are signatory to a Labor Agreement which most recently took effect on January 1, 2017 (the "Labor Agreement"). This Letter of Agreement outlines additional agreements reached by the Parties during the course of the collective bargaining which resulted in the making of the Agreement and which the Parties now desire to confirm.

GENERAL PROVISIONS

The Employer has created a *job bank* as a component of its resources allocation (budget) process. The purpose of the Job Bank is to assist the Employer and its employees during a time of major restructuring and change caused by unyielding demands for municipal service in the face of decreasing funding. It is the Employer's intention, to the extent feasible under these circumstances, to identify employment opportunities for employees whose positions are eliminated through reassignment, retraining and out-placement support. One of the purposes of the Job Bank process is to minimize, to the extent possible, the disruption normally associated with contractual "bumping" and layoff procedures to both the Employer and affected employees.

The Job Bank process shall be administered in a manner which is consistent with the Employer's desire to treat affected employees with dignity and respect at a difficult time in their relationship and to provide as much information and assistance to them as may be reasonably possible and practical within the limited resources available.

The term "Recall List" as used in this Agreement means the list of employees who are laid off from employment with the City or removed from their position by reason of a reduction in the size of the workforce, and who retain a right to return to their prior job classification pursuant to the terms of the Labor Agreement and/or Civil Service rules.

JOB BANK PROCESS AND PROCEDURE

I. Job Bank Assignment

1. Regular (*permanently certified*) employees whose positions are eliminated shall receive formal, written notification to that effect from the appointing authority of the department to which they are assigned. If a position is to be eliminated in any department, the employee with the least amount of seniority in the particular job class within the impacted

division/department will be placed in the job bank, regardless of performance, assignment, function or other consideration. For the purposes of this section, a division is defined as an operational unit headed by a supervisory director or deputy who reports directly to a department head. If a department is of such a size as to have no distinct divisions, the department shall be treated as a division. Whether the layoff will be implemented relative to the least senior in a division or department will be determined by the terms of the Labor Agreement covering the impacted positions.

2. Such employees shall be assigned to the Job Bank. Employees whose positions have been eliminated based on the Employer's regular annual budget process, including the Mayor's proposed budget and/or the final annual City budget as passed by the City Council, or as otherwise ordered by the City Council, are entitled to a sixty (60) day tenure in the job bank. All positions eliminated based on the Mayor's proposed budget and/or the final annual City budget as passed by the City Council must be so eliminated after the Mayor's proposed budget is announced but no later than January 1, of the next budget cycle (unless the department/division intends to eliminate at a later date as part of their final annual budget for that year). Employees whose positions have been eliminated based on any mid-cycle budget or revenue reductions not controlled by the Mayor and the City Council, are entitled to a thirty (30) day tenure in the job bank, or until they are reassigned, whichever may first occur. All such employees in the Job Bank shall have extended job bank services for as long as they remain on a recall list. During such period such laid off employees shall form a pool for "restricted examination" for positions for which they may be qualified. The employee will notify the City of their interest in being considered. The Union will assist in notifying these employees of vacancies to be filled. A permit position shall be considered a "vacancy" if it is in a job classification impacted by the workforce reduction and if more than 60 days remain on the permit.

3. Permit and temporary employees whose employment is terminated are not eligible for Job Bank assignment or benefits. Certified temporary employees shall, however, be eligible for the Job Bank activities described in paragraphs 2(c) below.

II. Job Bank Activities

1. While affected employees are assigned to the Job Bank, they shall continue in their positions with no change in pay or benefits. While so assigned, however, affected employees may be required to perform duties outside of their assigned job classifications and/or they may be required to perform such duties at a different location as determined by the Employer.

2. While affected employees are assigned to the Job Bank, the Employer shall make reasonable efforts to identify vacant positions within its organization which may provide continuing employment opportunities and which may be deemed suitable for affected employees by all concerned.

    a. **Lateral Transfer.** Employees may request to be transferred to a vacant position in another job classification at the same MCSC Grade level provided they meet the minimum qualifications for the position.

i. Seniority Upon Transfer. In addition to earning job classification seniority in their new title, transferred employees shall continue to accrue job classification seniority in their former title and they shall have the right to return to their former title if the position to which they have transferred is later eliminated. In the event the transfer is to a formerly held job classification, seniority in the new (formerly held) title shall run from the date upon which they were first certified to the former classification.

ii. Pay Upon Transfer. The employee's salary in the new position will be their former salary or that of the next available step in the pay progression schedule for the new title which provides for an increase in salary if no equal pay progression step exists. If the employee's salary in the former position is greater than the maximum salary applicable to the new title, the employee's salary will be *red circled* until the maximum salary for the new title meets the employees' red circled rate. Such employees shall, however, be eligible for fifty percent (50%) of the negotiated general increase occurring during the term of the Agreement. Lateral transfers shall not affect anniversary dates of employment for pay progression purposes.

iii. Probationary Periods. Employees transferring to a different title will serve a six (6) calendar month probationary period. In the event the probationary period is not satisfactorily completed, the affected employee shall be returned to Job Bank assignment and the employee's "bumping", layoff or transfer rights under the Agreement or other applicable authority shall be restored to the same extent such rights existed prior to the employee taking the probationary position. Upon the affected employee's first such return to the Job Bank, the employee shall be entitled to remain in the Job Bank for the greater of ten (10) business days, or the duration of the applicable Job Bank period, as determined under Article I, paragraph 2, that remained as of the date the employee began in the probationary position. The rate of compensation for the remainder of the employee's time in the Job Bank will be the same as the rate in effect as of the employee's last day in the probationary position. Return to the Job Bank terminates the employee's work in the probationary assignment and, therefore, time served following the return to the Job Bank shall not be construed to count toward the completion of the probationary period.

b. **Filling Vacant Positions.** During the time the procedures outlined herein are in effect, position vacancies to be filled shall first be offered to regular employees who have a contractual right to be recalled to a position in the involved job classification or who may have a right to "bump" or transfer to the position, as the case may be. In such circumstances, the seniority provisions of the Agreement shall be observed. If no regular employee has a contractual right to the position, the following shall be given consideration in the order (priority) indicated below:

1st Priority:	Qualified Job Bank employees
2nd Priority:	Employees on a recall list
3rd Priority:	Employee applicants from a list of eligibles
4th Priority:	Displaced certified temporary employees
5th Priority:	Non-employee applicants from a list of eligibles

The qualifications of an employee in the Job Bank or on a recall list shall be reviewed to determine whether he/she meets the qualifications for a vacant position. Whether the employee can be trained for a position within a reasonable time (not to exceed three months) shall be considered when determining the qualifications of an employee. If it is determined that the employee does not meet the qualifications for a vacant position, the employee may appeal to the Director of Human Resources. If it is determined that an employee in the Job Bank is qualified for a vacant position, the employee shall be selected. The appointing authority may appeal the issue of whether the employee is qualified. The dispute shall be presented to and resolved by the Job Bank Steering Committee.

If it is determined that an employee on a recall list is qualified for a vacant position, the employee will be given priority consideration and may be selected. Appeals regarding employees on a recall list and their qualifications for a position will be handled by the Civil Service Commission.

The grievance procedure under the Labor Agreement shall not apply to determinations as to qualifications of the employee for a vacant position.

3. During their assignment to the Job Bank, affected employees will be provided an opportunity to meet with the Employer's Placement Coordinator to discuss such matters as available employment opportunities with the Employer, skills assessments, training and/or retraining opportunities, out-placement assistance and related job transition subjects. Involvement in these activities will be at the discretion of the employee. Further, affected employees will be granted reasonable time off with pay for the purpose of attending approved skills assessment, training and job search activities. Displaced certified temporary employees are eligible for the benefits described in this paragraph. These services shall be provided to the Job Bank employee at no cost to the employee.

III. Layoff, Bumping and Retirement Considerations

1. A "Primary Impact Employee" is an employee who enters the Job Bank due to the elimination of his/her position. A "Secondary Impact Employee" is an employee who enters the Job Bank because he/she may be displaced by a Primary Impact Employee. All affected employees may exercise the displacement, "bumping" and/or layoff rights immediately. A Primary Impact Employee must exercise displacement or bumping rights within forty-five (45) days of entering the Job Bank (or within twenty-two [22] days of entering the Job Bank for an employee entitled to 30-days in the Job Bank). A Primary Impact Employee who exercises his/her displacement or bumping rights within the first thirty (30) days from entering the Job Bank (within the first fifteen [15] days for an employee entitled to 30-days in the Job Bank) shall have 8 hours added to the employee's

vacation bank. A Secondary Impact Employee must exercise his/her displacement or bumping rights within seven (7) calendar days of being displaced or bumped. Displacement and bumping rights shall be forfeited unless exercised by the deadlines specified in this paragraph or in the provisions of 2.a *iii*, Lateral Transfers, above. Regardless of when bumping rights are exercised, any change in the compensation of the employee resulting from the exercise of bumping rights shall not take effect until after the employee's term in the Job Bank would have expired had the employee remained in the Job Bank for the maximum period.

2. If an affected employee is unable to exercise any "bumping" rights, or forfeits their bumping rights, under the Agreement or other authority and has not been placed in another City position, the employee shall be laid off and placed on the appropriate recall list with all rights pursuant to the relevant Labor Agreement provisions, if any, and all applicable Civil Service rules. In addition, they shall be eligible for the benefits described as follows:

   (a) The level of coverage, single or family, shall continue at the level of coverage in effect for the laid off employee as of the date of layoff.
   (b) The health/dental plan that shall be continued shall be the plan in effect for the employees as of the date of layoff.
   (c) The City shall pay one hundred (100) percent of the premiums for the first six (6) months of COBRA continuance at the level of coverage and plan selected by the employee and in effect on the date of the layoff.

   The terms of this provision relating to the continuation of insurance benefits will expire on December 31, 2019. The City Council must take specific action to extend these terms relating to the continuation of insurance benefits if the City Council wants those specific insurance benefits to apply to laid off employees after December 31, 2019.

3. If eligible, affected employees may elect retirement from active employment under the provisions of an applicable pension or retirement plan. In such event, affected employees will be eligible for any available Retirement Incentive that is agreed to by the Parties.

4. Notwithstanding any provision in ordinance or Civil Service Rules to the contrary, an employee who, pursuant to the terms of this Job Bank Agreement:

   i. was designated for lay off and accepts a position with the City that is not represented by this bargaining unit;
   ii. is transferred to a position outside the bargaining unit; or
   iii. is reassigned to a position outside the bargaining unit;

   shall be placed on a Recall List and thereby remain eligible to be recalled to the position he/she was in prior to entering the Job Bank.

IV. Dispute Resolution.

Disputes regarding the application or interpretation of this Agreement are subject to the grievance

procedure under the Labor Agreement between the parties, except as specifically provided here. A dispute regarding the application or interpretation of this Agreement that needs to be resolved during an employee's time in the Job Bank may be submitted to the Job Bank Steering Committee. The decision of the Job Bank Steering Committee will be binding on the parties. Submission to the Job Bank Steering Committee shall not preclude the filing of a grievance on the issue. However, the decision of the Steering Committee shall be admissible in an arbitration hearing on such grievance.

The provisions of this *Letter of Agreement* associated with the Job Bank Program shall become effective upon the approval of the Employer's Council and Mayor. The Job Bank procedures outlined herein shall be observed after the negotiated termination date of the Labor Agreement between the Parties, and expire on December 31, 2019.

To the extent that there is any conflict between the terms of this *Letter of Agreement* and the Labor Agreement, the Labor Agreement shall prevail.

NOW THEREFORE, the Parties have caused this *Letter of Agreement* to be executed by their duly authorized representative whose signatures appear below.

FOR THE EMPLOYER:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE FEDERATION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "G"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

MEMORANDUM OF AGREEMENT
Duty Status Review Process

The above-entitled Parties are signatory to a Labor Agreement which most recently took effect on January 1, 2017 (the "Labor Agreement"). This Memorandum of Agreement outlines additional agreements reached by the Parties during the course of the collective bargaining which resulted in the making of the Agreement and which the Parties now desire to confirm.

1. The Duty Status Review Process ("DSRP") described in this Memorandum of Agreement ("MOA") shall be used to resolve disputes as to whether the criteria for retention of the employee on administrative leave/limited duty status under Section 26.02, subd. 2 are satisfied.

2. Notifications sent under this MOA shall be made in the manner and to the individuals as provided in Section 11.04 of the Labor Agreement. However, the time lines referenced in Article 11 of the Labor Agreement do not apply to the DSRP.

3. During the initial discussion *(see Section 26.01, Subd. 4 of the Labor Agreement)* between the Chief and a Federation representative upon the placement of an employee on administrative leave or limited duty status and subsequent discussions thereafter, the parties shall address, among other things, the following:

    a. The nature and severity of the allegation;

    b. The evidence known to date, the expected timeline of the investigation (and, if a subsequent discussion, the progress that has been made since the last discussion);

    c. The employee's appropriate duty status and any restrictions relating thereto, such as:

        - paid administrative leave
        - limited duty
        - eligibility for uniformed off-duty employment
        - eligibility for non-uniformed off-duty employment
        - eligibility for overtime work

    d. The rationale for the determination.

4. The DSRP may be initiated, after the employee has been on administrative leave or limited duty status for 30 days and after a meeting between the parties, or upon the failure of the Chief to meet within 10 days of a request for a meeting, by giving written notice containing the following information:

    a. The name of the employee.

    b. The employee's assignment prior to placement on administrative leave or limited duty status.

    c. The duty status of the employee and any limitations on off-duty and/or overtime work and the date on which such status and limitations were imposed.

    d. The date of prior reviews of the employee's duty status and/or restrictions, if any.

    e. A description of the allegations against the employee which resulted in the placement on administrative leave or limited duty status.

5. Following notification to the Employer, the Director of Human Resources shall contact the panel of umpires established under this MOA by broadcast email (with a copy to the Employer and Federation) to give notice that a dispute is pending and seeking availability to consider the case and render a decision within 14 days. The first three umpires to respond with concurring available dates shall be selected. If fewer than three umpires are available within 14 days, the matter shall proceed with two umpires or, if the parties agree, one umpire. Upon determination of the umpires to consider the matter, the parties shall establish the date, time and place to convene the panel for the meeting.

6. The parties shall submit the nature of the dispute and their evidence and arguments by presentation at the panel meeting. All submissions, whether oral or in writing, shall be limited to information relevant to the nature of the allegation(s) under investigation and the evidence relating to the merits of such allegation(s).

7. Written materials may be submitted to the panel in conjunction with the presentation, provided copies of all such materials were provided to the opposing party at least 24 hours in advance. The presentations shall be made on behalf of the Federation by a Board member and on behalf of the Employer by a member of the Police Administration and not by lawyers or other representatives of the parties. Each party shall have no more than one hour to make its presentation to the panel, including any questions posed by the panel. Following the presentation by both parties, each party shall have up to 15 minutes for a rebuttal or a closing statement.

8. Following the presentations by the parties, the panel shall consider the limited issue(s) of:

    a. whether the allegation(s) is of a nature severe enough to limit the work assignment of the employee; and/or

b. whether there is sufficient reliable evidence to support a preliminary conclusion that such allegation(s) may be sustained; and/or

c. whether, if the dispute arises more than 60 days after the placement of the employee on administrative leave or limited duty status and at least 30 days after a prior review of the status of the investigation, the duty status of the employee should be modified by reason of the failure of the Employer to proceed with the investigation in a timely manner. The standard of review as to whether insufficient progress toward completion of the investigation has occurred since the prior review shall include consideration of the following:

i. No change in duty status is justified if the failure to make reasonable progress on the investigation is the result of circumstances beyond the control of the Employer;

ii. The mere referral of the investigation to another agency does not constitute "circumstances beyond the control of the Employer."

9. The panel of umpires shall render its decision to the parties in writing as to whether, upon consideration of the issues set forth in paragraph 8, above, the duty status of the employee is to remain as is or be modified. If modified, the panel shall specify whether the employee's status is to be:

a. modified from administrative leave to limited duty status; or

b. modified from administrative leave or limited duty status to the duty assignment to which the employee was assigned immediately prior to placement on administrative leave or limited duty.

The panel may, but is not required to, provide a short statement describing the rationale of its decision.

10. The decision of the panel is final and binding on the parties based on the facts and circumstances known at the time of the decision. The panel's decision is limited to the issue of the employee's duty status pending the outcome of the investigation. The decision of the panel does not establish any precedent regarding the just cause for discipline or for the level of any discipline and the decision of the panel is not admissible in any hearing or proceeding contesting such discipline.

11. The DSRP may be invoked more than once for the same employee with regard to his/her duty status pending investigation of the same allegations, subject to the provisions for periodic review under Section 26.02, Subd. 2 of the Labor Agreement. To the extent possible, the same panel members shall be used for additional deliberations relating to the same allegations, or new allegations flowing therefrom, against an employee.

12. Notwithstanding the foregoing, a panel decision does not preclude return of an employee to administrative leave or limited duty status if new reliable evidence is discovered with regard

to the allegation(s) or other severe allegations. In such case, the process described in paragraphs 3 through 10 shall be followed as if a new allegation had been made, except that the DSRP can be initiated prior to the expiration the 30-day "discretionary period" that would normally apply when an employee is first placed on administrative leave or limited duty status.

13. The Panel of Umpires.

    a. The panel of umpires shall consist of not less than five (5) people mutually agreeable to the parties.

    b. To establish the panel of umpires, each party shall submit to the President of the Board of Business Agents (unless the President is a representative of the Federation, in which case the submission shall be made to a mediator from the Bureau of Mediation Services) a list of ten candidates for consideration. All persons whose names appear on both lists shall be placed on the panel, unless the parties agree to limit the number. If the initial submission of lists does not result in at least five (5) umpires for the panel, the parties will repeat the process with lists of three names each until they reach the required minimum number. Once the people to serve on the panel have been identified, a representative of each party will jointly contact the individuals to confirm their availability and willingness to be included on the panel and serve in the capacity of umpire. If any person declines, the selection process described herein will continue until the panel is filled with the minimum number.

    c. An umpire will be removed from the panel upon the occurrence of any of the following events:

        (1) written mutual agreement between the parties;
        (2) the umpire has resigned, retired, died, become disabled or has been unavailable to hear cases for a period of longer than twelve (12) months;
        (3) the umpire no longer maintains a residence in the State of Minnesota.

    d. To fill a vacancy on the panel of umpires, the parties shall follow the process specified in subsection b, above, except that the number of candidates on the initial list shall be the number of vacancies plus two.

    e. The compensation payable to an umpire for the service in considering and deciding a case shall be $500, which shall be split equally between the parties.

    f. Periodically, but not less than once every three (3) years, the Parties will review the list, re-verify each umpire's availability and commitment, and set the fee structure.

14. This MOA will be appended to the Labor Agreement and will renew automatically with each successor Labor Agreement unless terminated or amended by the written agreement of the Parties.

14. The Human Resources Department, after consultation with the Police Administration and

Federation, may develop forms, practices and other procedures for implementing this Agreement. However, such items shall not modify or supersede the provisions of this Agreement.

NOW THEREFORE, the Parties have caused this *Letter of Agreement* to be executed by their duly authorized representative whose signatures appear below.

FOR THE EMPLOYER:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE FEDERATION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

ATTACHMENT "H"

CITY OF MINNEAPOLIS

And

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

MEMORANDUM OF AGREEMENT
Arbitrator Panel Maintenance

The above-entitled Parties are signatory to a Labor Agreement which most recently took effect on January 1, 2017 (the "Labor Agreement"). This Memorandum of Agreement outlines additional agreements reached by the Parties during the course of the collective bargaining which resulted in the making of the Agreement and which the Parties now desire to confirm.

RECITALS

A. The City of Minneapolis (hereinafter "Employer") and the Police Officers Federation of Minneapolis (hereinafter "Federation") are Parties to a Collective Bargaining Agreement (hereinafter jointly ("the Parties" and "Labor Agreement", respectively) that is currently in effect.

B. Section 11.02, Subd. 3 of the Labor Agreement provides for the creation of a panel of arbitrators to be used for grievance arbitration.

C. Confusion arose as to how the panel of arbitrators was to be modified and/or maintained.

D. Section 11.02, Subd. 3 of the Labor Agreement does not establish procedures for maintaining or modifying the panel of arbitrators.

E. The Parties now desire to establish procedures to be used to maintain the panel of arbitrators.

NOW THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. The panel will consist of no fewer than five (5) and no more than eight (8) arbitrators.

2. An Arbitrator will be removed from the panel upon the occurrence of any of the following events:

    a. Written mutual agreement between the Parties.

    b. The arbitrator is no longer on the BMS Panel.

c. The arbitrator has resigned, retired, died, become disabled or has been unavailable to hear cases for a period of longer than twelve (12) months.

d. The arbitrator no longer maintains a residence or office in the State of Minnesota; unless the parties mutually agree to retain the arbitrator.

3. If there is a vacancy on the panel the following procedures will be used to fill the vacancy:

a. First Step

i. Each party will submit a list of five (5) arbitrators they propose to add to the panel to the President of the Minneapolis Board of Business Agents, or in his/her absence, the Chairperson of the Minneapolis Citywide Labor Management Committee.

ii. Any arbitrator whose name is common to both lists will be eligible for selection.

iii. If the number of common names exceeds the number of vacancies, the parties may:

iv. Keep all the commonly identified arbitrators for the Panel

v. Select via blind draw the name(s) to be selected to fill the vacancies.

b. Second Step. If there are no common names on the lists submitted, then the parties will:

i. review the Bureau of Mediation Service's Roster of Arbitrators;

ii. eliminate all current Panel members;

iii. eliminate each Roster member who does not maintain a residence or office in Minnesota, unless the Parties mutually agree to retain the "out-of-state" arbitrator;

iv. independently strike the names of the number of Arbitrators that represents 25% of the pool of Roster members that remains after step iii, above;

v. Establish a list of the arbitrators whose names remain on the list after the preceding steps;

vi. After the President of the Board of Business Agents or the Chairperson of the Minneapolis Citywide Labor Management Committee has overseen a coin toss to determine which party will make the first strike from the remaining list, the parties will use the "Alternate Strike" method to reduce the remaining list of arbitrators until the needed number is reached.

c. An Arbitrator selected from this process will be added to the panel, subject to his/her acceptance of the assignment and agreement as to availability and the established fee structure.

4. Periodically, but not less than once every three (3) years, the Parties will review the list, re-verify each arbitrator's availability and commitment, and set the fee structure.

5. This Agreement will be appended to the Labor Agreement and will renew automatically with each successor Labor Agreement unless terminated or amended by the written agreement of the Parties.

FOR THE CITY OF MINNEAPOLIS:

Janeé Harteau — Date
Chief of Police

Timothy O. Giles — Date
Director, Employee Services

FOR THE FEDERATION:

Bob Kroll — Date
President, Police Federation

James P. Michels — Date
Attorney for Police Federation

EXHIBIT

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RULE 11

DISCIPLINE AND REMOVAL

11.01 Purpose

The Commission establishes and supports disciplinary rules and procedures, which will provide for the orderly conduct of business operations and human resources management The Commission provides for a proper balance between the rights of employees and the obligation of City management to employ and retain only those employees who make a positive contribution to the quality of services provided to the community. (CSC 12/15/15)

11.02 Relationship to the Minnesota Public Employment Labor Relations Act

Under the Minnesota Public Employment Labor Relations Act, employees in a recognized bargaining unit may choose to grieve the disciplinary action through their labor agreement. In such cases, the Commission will not conduct a hearing nor enter into the process. Similarly, an employee who chooses to appeal a disciplinary action to the Commission waives the right to file a grievance through a labor agreement. (CSC 12/15/15)

11.03 Causes for Disciplinary Action

The two primary causes for disciplinary action are substandard performance or misconduct. The following are examples of substandard performance and misconduct that may lead to discipline. This list is not exhaustive. (CSC 12/15/15)

A. Substandard Performance

1. Employees who fail to perform their job at minimum acceptable standards (CSC 12/15/15)

2. Employees who fail to meet or continue to meet an established requirement of the position, e.g. license or registration or are not otherwise qualified to perform the duties of the position. (CSC 4/9/92) (CSC 2/10/94) (CSC 12/15/15)

B. Misconduct

Misconduct is the failure to comply with any work rule, policy, ordinance or law or any behavior that would offend a reasonable person. The following activities are examples of misconduct, which may be cause for disciplinary action. (CSC 12/15/15)

1. Tardiness and absenteeism.

2. Sick leave abuse.

3. Absence without leave, except that this shall not be construed to prohibit or limit an employee's right to exercise his or her rights under PELRA or other applicable labor law. (CSC 12/15/15)

4. Insubordination (failure to follow a directive from a supervisor). (CSC 12/15/15)

5. Willful or negligent damage of City property.

6. Interference with the work of other employees.

7. Harassment on the basis of any protected class listed in Rule 1.01A. (CSC 12/15/15)

8. Misappropriation of City property, funds or money.

9. Violation of safety rules, laws, and regulations.

10. Discourtesy to public or fellow employees.

11. Violence, threats of violence, abusive behavior, abusive language or mental harassment. (CSC 12/15/15)

12. Accepting gifts from the public in connection with performance of duties as a City employee.

13. Criminal or dishonest conduct whether such conduct was committed while on duty or off duty. (CSC 12/15/15)

14. Reporting to work under the influence (as defined in City policies or labor agreements) or in possession of alcohol or illegal drugs, or using such substance on the job. (CSC 12/15/15)

15. Soliciting or receiving funds for political purposes or personal gain during work.

16. Using authority or influence to compel an employee to become politically active, except that this shall not be construed to prohibit or limit an employee's right to exercise his or her rights under PELRA or other applicable labor law. (CSC 12/15/15)

17. Use or threat of political influence on employment status.

18. Making a false statement or the failure to disclose a material fact during an investigation or to management. (CSC 8/27/98) (CSC 12/15/15)
19. Violation of department rules, policies, procedures or City ordinances.

20. Other justifiable causes.

11.04 Types of Disciplinary Action

It is the intent of the Commission to establish levels of discipline which are commensurate with the reasons or causes for disciplinary action. The following types of disciplinary action may be imposed and will normally be administered progressively, in the following order: (CSC 12/15/15)

A. Warning

A disciplinary warning includes a verbal discussion between the employee and supervisor covering the details of the problem, plans for correcting the problem and a written memo to document the event. (CSC 12/15/15)

B. Written Reprimand

A written reprimand is a letter documenting the rules violation, a plan for future avoidance, and a warning about future disciplinary action. (CSC 12/15/15)

C. Suspension

A suspension is an involuntary absence from work without pay for a period not to exceed ninety calendar days. In general, suspensions are more appropriate in situations involving misconduct rather than substandard performance. (CSC 12/15/15)

D. Demotion

A demotion may be utilized by management as a performance management tool or as discipline. A demotion includes a reduction in grade and/or salary. Demotions may be temporary or permanent. The granting of a voluntary demotion shall not be considered discipline. (CSC 12/15/15)

1. In general, temporary demotions, those up to one hundred eighty days, are more appropriate for misconduct. (CSC 12/15/15)

2. In general, permanent demotions, those over one hundred eighty days, are more appropriate for substandard performance. (CSC 12/15/15)

3. A voluntary demotion may be granted to avoid other disciplinary action if agreed to by the employee and by management.

4. An employee who is demoted may return to their prior status class or to a lower job class in the same occupational field. If no vacancy exists, the employee will be placed on the corresponding layoff list.

E. Discharge

Discharge is the involuntary separation of an employee from employment and is appropriate for substandard performance, repeated misconduct, or a single incident of severe misconduct. (CSC 12/15/15)

Progressive discipline need not be imposed in cases of; (CSC 12/15/15)

1. Substandard performance, where the employee has been afforded an opportunity to perform satisfactorily under a performance improvement plan.

2. Where an employee is no longer qualified for the position.

3. Repeated misconduct.

4. Severe initial misconduct.

11.05 Notification

A department disciplining an employee must give the employee notice of its intent to take disciplinary action and should notify Human Resources Department of its decision to impose discipline. The notice to the employee must state the cause for disciplinary action under Rule 11.03. If the employee is subject to a collective bargaining agreement, the department must inform the employee that the employee has a right to representation by the employee's exclusive certified collective bargaining representative. (CSC 12/15/15)

11.06 Appeal Rights of Employees

Disciplined employees may appeal to the Commission, only as provided herein. An employee may appeal to the Commission a suspension of over thirty days, a permanent demotion (including salary decreases), or a discharge. (CSC 12/15/15)

A. Probation

An employee removed or discharged during a probationary period may not appeal and is not entitled to a hearing under these rules. A veteran removed during an initial probationary period is not entitled to a hearing under these rules or to a Veteran's Preference hearing. The rights of a veteran are subject to Minnesota Statute § 197.46.

B. Employee Request for Hearing.

Disciplined employees who are eligible to be heard may appeal a disciplinary action by requesting a hearing before the Commission The request for hearing must be in writing

and must describe the alleged breach of disciplinary rules and procedures by management. (CSC 12/15/15)

The request for hearing must be postmarked or received by the Human Resources Department/Civil Service Commission within 15 calendar days from the date disciplinary action was provided to the employee. The 15 days are counted from the first day after the notice was served. If the fifteenth day falls on a Saturday, Sunday, or a legal holiday, the request may be served on or before the following business day. The date of postmark must be within that 15 day period. (CSC 12/15/15)

C. Veterans Request for Hearing

Veterans who are eligible under Minnesota Statute §197.46 may appeal their removal or discharge by requesting a hearing before the Commission. A request for hearing must be in writing and may describe the alleged breach of disciplinary rules and procedures by management.

A request for hearing from a veteran must be received by the Human Resources Department/Civil Service Commission within 30 days of receipt by the veteran of the notice of intent to discharge. The 30 days are counted from the first day after the notice was received. If the 30th day falls on a Saturday, Sunday, or a legal holiday, the request must be made on or before the following business day.

The rights of a veteran is subject to Minnesota Statutes §197.46. (CSC 7/27/04) (CSC 12/15/15) (CSC 01/24/17)

11.07 The Disciplinary Hearing

When, in the Commission's judgment, an employee's appeal for a disciplinary hearing is appropriate under the Rules, the Commission will arrange for such hearing and subsequent findings and decisions will be issued. (CSC 12/15/15)

A. Hearing Notice

1. The Commission will provide the disciplined employee and management with at least ten days' notice of the time and place of the hearing. (CSC 12/15/15)

2. Veteran's Hearing

Upon receipt of a timely written request for a hearing from a veteran or if a veteran timely requests a hearing but does not elect who shall conduct the hearing the Commission will establish a hearing date and conduct the hearing. The Commission will provide the veteran and management with the date, time and place of the

hearing which may be scheduled no more than ten calendar days following the end of the veteran's thirty day appeal period. (CSC 4/23/98) (CSC 12/15/15) (CSC 01/24/17)

B. Hearing Authority

A Commissioner may conduct the disciplinary hearing or the Commission may appoint a hearing examiner to conduct the hearing and report findings and recommendations to the Commission. The Commission and its appointees have the power of subpoena to require attendance of witnesses and submittal of pertinent documents, to administer oaths, and to continue the hearing from time to time. No more than five subpoenas may be issued without approval of a Commissioner. Management and the appellant employee may be represented by counsel. (CSC 12/15/15)

C. Hearing Procedure

The procedures in a disciplinary hearing will be as informal as practicable, follow Minnesota Rules, part 1400.7300 Rules of Evidence, will have a verbatim audio recording kept, and be conducted in the following sequence: (CSC 12/15/15)

1. Management or the representative of management presents evidence in support of their disciplinary action.

2. The employee or the employee's representative presents evidence in defense of the employee.

3. Both parties may offer rebuttal.

4. In no case will evidence be considered or arguments heard without all parties being present and having an opportunity to respond. (CSC 12/15/15)

D. Post-Hearing Procedures (CSC 3/14/02)

1. The Hearing Officer shall file the Findings of Fact, Conclusions and Recommendations with the Commission within forty-five days from the close of the hearing record. (CSC 3/14/02)

2. The Commission will serve the Findings of Fact, Conclusions and Recommendation of the Hearing Officer upon management and the employee. (CSC 3/14/02)

3. The employee and management shall each have ten days after receipt of the Findings of Fact, Conclusions and Recommendation to file on each other and on the Commission written exceptions to the Findings of Fact, Conclusions and Recommendations. No new evidence shall be offered by a party or received by the Commission. (CSC 3/14/02) (CSC 12/15/15)

4. Prior to issuing an Order, the Commission may hear oral closing arguments. The Commission shall provide notice to the employee and management of the date of oral closing arguments before the Commission. No new evidence shall be offered by a party or received by the Commission. (CSC 3/14/02) (CSC 12/15/15)

5. The final written decision of the commission will be published by notice to the employee and management within thirty days. The final written decision of the Commission which may be in the form of an Order shall be served on the employee and management after the oral arguments. (CSC 3/14/02) (CSC 12/15/15)

6. Time limits imposed on the Hearing Officer under Rule 11.07, D., may be extended by the Commission. (CSC 12/15/15)